

SOLICITATION, OFFER, AND AWARD			1. Market Open		Page of Pages 1 91	
2. Contract Number		3. Solicitation Number DCAE-2004-R-0014		4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposal (RFP)		5. Date Issued 30-Aug-04
6a. Caption		Provide Third Party Claims Administration Services for the District's Self-Insured Worker's Compensation Program				
7. Issued By Office of Contracting and Procurement Professional Services and Public Safety CBG No. 6 441 4th Street, NW, Suite 700 South Washington, DC 20001			8. Address Offer To (If other than line 7)			
NOTE: In sealed bid solicitations "Offer" and Offeror" means "Bid" and "Bidder"						
SOLICITATION						
9. Sealed bid in original and <u>7</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in <u>441 4th Street, NW, Suite 703 South, Bid Counter, Washington, DC 20001</u> until <u>2:00 PM</u> local time <u>30-Sep-04</u> (Hour) (Date)						
CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR Chapters 15 and 16 as applicable. All offers are subject to all terms and conditions contained in this solicitation.						
10. For Information Contact		A. Name Lindel Reid		B. Telephone (No Collect Calls) (Area Code) 202 (Number) 724-4198 (Ext)		C. E-mail Address linde.reid@dc.gov
11. Table of Contents						
(X)	Section	Description	Pages	(X)	Section	Description
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OFFER						
12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u>90</u> calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.						
13. Discount for Prompt Payment		10 Calendar days %	20 Calendar days %	30 Calendar days %	<u> </u> Calendar days %	
14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):			Amendment Number	Date	Amendment Number	Date
15A. Name and Address of Offeror		Code <u> </u> Facility <u> </u>		16. Name and Title of Person Authorized to Sign Offer/Contract		
15B. Telephone (Area Code) (Number) (Ext)		15 C. Check if remittance address is different from above - enter address in Schedule Section K. <input type="checkbox"/>		17. Signature		18. Offer Date
AWARD (TO BE COMPLETED BY GOVERNMENT)						
19. Accepted as to Items Numbered			20. Amount		21. Accounting and Appropriation	
22. <input type="checkbox"/> Award - DC OCP Form 201 not required <input type="checkbox"/> Negotiated Agreement - DC OCP Form 201 must be executed			23. Submit Invoices to Address Shown In (2 copies unless otherwise specified)			Item
24. Administered By (If other than Item 7) Code <u> </u>			25. Reserved for future use			
26. Name of Contracting Officer (Type or Print)			27. Government of the District of Columbia (Signature of Contracting Officer)			28. Award Date

SECTION B – DESCRIPTION OF SUPPLIES OR SERVICES AND PRICES

B.1 SUMMARY OF SUPPLIES OR SERVICES

B.1.1 The District of Columbia Government, Office of Contracting and Procurement (OCP), on behalf of the Office of Risk Management (DCORM) is seeking a Contractor to provide Third Party Claims Administration (TPA) and related services for the District's Self-Insured Worker's Compensation Program (currently known as Disability Compensation Program (DCP), which covers approximately 33,378 employees, of which approximately 5,020 are Uniformed Police, Firefighters and Emergency Medical Services personnel covered under Police and Firefighters Disability, 5 U.S.C. § 6324 and D.C. Official Code § 5-707 (2001, 2003 Supp.). The current caseload of the DCP is approximately 1,800 cases.

B.1.2 The District is soliciting proposals from responsible offerors with proven expertise in large-scale claims administration services. Each offeror must submit an On-Site proposal (CLINS 0001, 0002, 0102 and 0202) in which Contractor's claims adjusters, their immediate supervisors (if necessary) and required support staff are located in the DCORM Claims Bureau performing their basic claims adjusting work utilizing the DCORM Risk Management Information System (RMIS). Each offeror must also submit a separate alternate Off-Site proposal (CLINS 0001A, 0002A, 0102A and 0202A) to provide TPA and related services at Contractor's facility. There may be links from the RMIS to the Contractor's related service networks.

B.1.2.1 Should the District select an offeror's On-Site proposal, the District will provide the workspace, the Risk Management Information System (Risk Master from Computer Sciences Corporation), personal computers with related hardware, telecommunications assess, and will bear all reasonably necessary utility costs. The DCORM Claims Bureau can provide up to seven (7) workstations for claims adjusters and separate workspace for directly related support staff and supervisory staff. The offeror in its On-Site proposal must identify, with supporting details such as organization charts and equipment lists, the physical and logistical requirements for effective on-site claims adjusting.

B.1.3 The District intends to award to a single Contractor a fixed price contract with a three-year base period and two (2) one-year option periods, with Performance Incentives and Disincentives. The District will award a contract based on the "On-Site proposal" or a contract based on the "Off-Site proposal".

B.1.4 After award of the contract, there will be a 90 calendar day transition period, during which the Contractor will receive and process electronic data and paper claims files from the current vendor. The selected Contractor must be fully operational on or before 90 calendar days following contract award.

B.1.4.1 During the transition period, the District shall pay the Contractor in three (3) equal monthly installments, based on the Contractor's proposed price for transition services (CLINS 0001 or 0001A).

B.1.5 The District will pay the Contractor according to the following schedules, B.2.1, B.2.2, B.2.3, B.2.4, B.2.5 and B.2.6.

B.2 PRICE SCHEDULE - DESCRIPTION OF SERVICES AND PRICE

The offeror's proposed pricing in the tables below shall be applied as an evaluation factor per Section M.3.2 for On-Site price and Section M.3.5 for Off-Site price, and defines the baseline amount of compensation paid by the District to the Contractor for the time period noted.

The term "baseline amount of compensation" is the amount of money the District will pay the Contractor if the Contractor meets the performance measure standards listed in Section C.6, before the application of Incentives or Disincentives, as described in Section B.3.

B.2.1 BASE PERIOD (Contract award through three (3) years thereafter)

ON-SITE PRICE SCHEDULE

			Year 1	Year 2	Year 3	Total
Contract Line Item Number (CLIN)	Description of Service	Quantity	Price	Price	Price	Price
0001	Complete On-Site Transition of Existing Electronic and Paper Claims Data as set forth in Section C.5.2.	1 Job	\$			\$
0002	On-Site Operation of the District's Self-Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6.	1 Job	\$	\$	\$	\$
ANNUAL TOTAL			\$	\$	\$	\$
BASE PERIOD TOTAL						\$

B.2.2 BASE PERIOD (Contract award through three (3) years thereafter)

OFF-SITE PRICE SCHEDULE

			Year 1	Year 2	Year 3	Total
Contract Line Item Number (CLIN)	Description of Service	Quantity	Price	Price	Price	Price
0001A	Complete Off-Site Transition of Existing Electronic and Paper Claims Data as set forth in Section C.5.2.	1 Job	\$			\$
0002A	Off-Site Operation of the District's Self-Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6.	1 Job	\$	\$	\$	\$
ANNUAL TOTAL			\$	\$	\$	\$
BASE PERIOD TOTAL						\$

B.2.3 OPTION YEAR 1

ON-SITE PRICE SCHEDULE

Contract Line Item Number (CLIN)	Description of Service	Quantity	Price
0102	On-Site Operation of the District's Self- Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6.	1 Job	\$
OPTION YEAR 1 TOTAL			\$

B.2.4 OPTION YEAR 1

OFF-SITE PRICE SCHEDULE

Contract Line Item Number (CLIN)	Description of Service	Quantity	Price
0102A	Off-Site Operation of the District's Self- Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6.	1 Job	
OPTION YEAR 1 TOTAL			\$

B.2.5 OPTION YEAR 2

ON-SITE PRICE SCHEDULE

Contract Line Item Number (CLIN)	Description of Service	Quantity	Price
0202	On-Site Operation of the District's Self- Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6	1 Job	\$
OPTION YEAR 2 TOTAL			\$

B.2.6 OPTION YEAR 2

OFF-SITE PRICE SCHEDULE

Contract Line Item Number (CLIN)	Description of Service	Quantity	Price
0202A	Off-Site Operation of the District's Self- Insured Workers Compensation Program as set forth in Sections C.5.3 through C.6	1 Job	\$
OPTION YEAR 2 TOTAL			\$

B.2.7 PRICE SUMMARY (ON-SITE)

Please insert the “Total” proposed baseline price from Tables B.2.1, B.2.3, and B.2.5 in the designated fields under the heading “Total” below.

Contract Period	Total
Base Period (3 years)	\$
Option Year 1	\$
Option Year 2	\$
Five-Year Contract Total	\$

B.2.8 PRICE SUMMARY (OFF-SITE)

Please insert the “Total” proposed baseline price from Tables B.2.2, B.2.4 and B.2.6 in the designated fields under the heading “Total” below.

Contract Period	Total
Base Period (3 years)	\$
Option Year 1	\$
Option Year 2	\$
Five-Year Contract Total	\$

B.3 PERFORMANCE-BASED INCENTIVES AND DISINCENTIVES

For CLINS 0001 and 0001A, the District will pay the Contractor in equal monthly installments as set forth in Section B.1.4.1, on a fixed-price basis. All other payments under this contract shall be performance-based; i.e. increased or decreased based upon the incentives or disincentives earned by the Contractor, within defined parameters, to the extent that the Contractor meets, fails to meet, or exceeds the Acceptable Quality Level for the performance standards, as specified in Section C.6 herein.

This contract will incorporate incentives as well as disincentives. If the Contractor, based on its composite audit score, as defined in Section C.7, exceeds the “Acceptable Quality Level” specified for every performance standard under Section C.6 “INCENTIVE AND DISINCENTIVE PERFORMANCE MEASURES AND STANDARDS”, the Contractor will earn an incentive fee from an “incentive fee pool” as described in Section B.3.1. If the Contractor does not meet the specified performance standards, the District will reduce its payment, as specified herein.

- B.3.1** The incentive fee pool will be an amount not to exceed \$500,000 per year or 10% of the annual contract amount, whichever is less.

During the first year of the Base Period of the contract, the amount of the incentive fee pool will be reduced from \$500,000 to \$375,000 or 10% of the contract value, whichever is less, as the first three (3) months of the contract will be the designated transition period (per Sections B.2.1 and B.2.2, Contract Line Item Numbers 0001 and 0001A and the Contractor shall not earn an incentive payment during the Transition Period. The District will set aside the required funding for the Incentive Fee Pool.

- B.3.1.1** Depending on its performance, the Contractor shall earn, and the District will pay, payments earned by the Contractor from the Incentive Fee Pool. Any Incentive Fee Pool money not earned for a given performance quarter (see C.3.24) is considered forfeited.

- B.3.2** After the three-month transition period, for the first nine (9) months of the three-year base period, for CLINS 0002 and 0002A, the Contractor will receive a monthly “baseline” payment, equal to 1/9 of the annual total fixed price for the contract base period. As shown in Section B.3.3.1.2, this baseline payment may increase or decrease, to the extent the Contractor merits a performance-based incentive or disincentive pursuant to Section C.6.

- B.3.3** For the second and third contract years for the three (3) year base period, for CLINS 0002, 0002A, and (if the option years are exercised) 0102, 0102A, 0202 and 0202A, the Contractor will receive a monthly “baseline” payment, equal to 1/12 of the annual total fixed price for the appropriate contract year. As shown in Section B.3.3.1.2, this baseline payment may increase or decrease, to the extent the Contractor merits a performance-based incentive or disincentive pursuant to Section C.6.

- B.3.3.1** At the end of every consecutive three (3) months or calendar quarter, personnel from DCORM will conduct a retrospective performance audit of a random sample of claims. The audit will commence within ten (10) business days of the end of the quarter and conclude in no more than ten (10) business days thereafter. The District will use the results of this audit to determine the extent to which the Contractor merits a performance-based incentive or disincentive pursuant to Section C.6.

The final incentive or disincentive fee amount determination will be made by the Contracting Officer upon the advice and recommendation of the Incentive and Disincentive Fee Determination Board (IDFDB per C.3.11), no later than 30 business days after the end of the Performance Quarter.

- B.3.3.1.1** During the first year of the base period, the District will draw a sample of claims for the first quarterly Performance Audit from claims processed by

the Contractor in months four (4), five (5) and six (6). Thereafter, DCORM will conduct Performance Audits every consecutive three (3) months period or calendar quarter, in accordance with B.3.3.1.

- B.3.3.1.2** The Performance Audit will test the Contractor's compliance with 7 (seven) Performance Measures and determine if the Contractor meets, fails to meet, or exceeds the associated Performance Standards (as described in Section C.6). Based on the results of this audit, the District will increase or reduce the Contractor's next payment to reflect the previous 3 month period's performance in accordance with Sections B.3.4 and B.3.5.

Attachment J.12, "Sample Application of Incentives and Disincentives" provides some examples of how the District will apply the provisions of Sections B.3.4 and B.3.5, using assumed numbers and Composite Audit Scores.

B.3.4 INCENTIVE FEES

As set forth in Section B.3, this contract incorporates payment incentives and disincentives. The purpose of an incentive payment is to provide a financial benefit, in the form of an increased payment from the District, to encourage the Contractor to achieve and maintain a designated level of performance, as described in Section C.6 "INCENTIVE AND DISINCENTIVE PERFORMANCE MEASURES AND STANDARDS".

- B.3.4.1** If the Contractor earns a Composite Audit Score (as defined in Section C.3.7) of 95%, the District will pay the Contractor its full baseline payment.

- B.3.4.2** If the Contractor earns a Composite Audit Score of greater than 95% to 97.5%, the District will pay the Contractor its full baseline payment plus 50% of the Quarterly Incentive Fee Pool.

- B.3.4.3** If the Contractor earns a Composite Audit Score of greater than 97.5% to 100%, the District will pay the Contractor its full baseline payment plus 100% of the Quarterly Incentive Fee Pool.

B.3.5 DISINCENTIVE FEES

As set forth in Section B.3, this contract incorporates payment incentives and disincentives. The purpose of a payment disincentive is to impose an additional cost upon the Contractor, in the form of a reduced payment from the District and the loss of an opportunity to earn an incentive payment, to encourage the Contractor to achieve and maintain a designated level of performance, as described in Section C.6 "INCENTIVE AND DISINCENTIVE PERFORMANCE MEASURES AND STANDARDS", thereby avoiding reductions in its payments from the District, as described in B.3.5.1 through B.3.5.4.1.

- B.3.5.1** If the Contractor earns a Composite Audit Score of 90% to 94.99%, the District will reduce the Contractor's baseline payment by 5.0%.
- B.3.5.2** If the Contractor earns a Composite Audit Score of 85% to 89.99%, the District will reduce the Contractor's baseline payment by 7.5%.
- B.3.5.3** If the Contractor earns a Composite Audit Score of 84.99% or less, the District will reduce the Contractor's baseline payment by 10.0%.
- B.3.5.4** If the Contractor achieves a Composite Audit Score of less than 90% for 2 (two) consecutive quarters, the District may consider the Contractor to be subject to default in accordance with Section 9 of the Standard Contract Provisions.
- B.3.5.4.1** In the event the District determines that the Contractor's performance is deficient, it retains the right to avail itself of any and all remedies allowed by statute, applicable regulations and procurement procedures.
- B.3.6** The incentive fee amount shall be determined by the Contracting Officer with the recommendation of the Incentive and Disincentive Fee Determination Board (IDFDB), based upon its consideration of the Composite Audit Score achieved by the Contractor.
- B.3.6.1** In reaching its performance-based payment determination, the IDFDB may consider events or circumstances beyond the control of the Contractor, or additional information provided by the Contractor or District.
- B.3.7** Following the completion of each quarterly Performance Audit, and determination of the incentive fee payment or disincentive payment reduction by the Contracting Officer with the recommendation of the IDFDB, the Contracting Officer's Technical Representative (COTR) will de-brief the Contractor as to its overall performance during the audited contract period.
- B.3.8** In no event shall total payments for CLINs 0002, 0002A, 0102, 0102A, 0202 and 0202A exceed the Contractor's baseline price plus the amount of the Incentive Fee Pool.

SECTION C – PERFORMANCE WORK STATEMENT

C.1 SCOPE

C.1.1 The District of Columbia Government, Office of Contracting and Procurement (OCP), on behalf of the Office of Risk Management (DCORM), (the District) seeks the services of a qualified contractor to operate the District's Self-Insured Worker's Compensation Program (currently known as Disability Compensation Program (DCP)).

C.1.2 The overall objectives of this procurement are to enter into a contract with a Third Party Claims Administrator (TPA) with proven expertise, in order to provide timely and appropriate service and payments to eligible District employees. Necessary payments will be made in accordance with Title XXIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 as amended, D.C. Code Sec 1-623.01 *et. seq.*, the District Personnel Manual and all applicable rules and regulations.

C.2 APPLICABLE DOCUMENTS

The Contractor shall provide services in accordance with the most recent versions and future revisions to all federal and District laws, regulations, policies, and subsequent amendments in the operation of its program. The documents relevant to the Contract and their location are identified in Table C-1.

Table C-1

Item No.	Document Type	Title	Location
1	D.C. Law	District of Columbia Government Comprehensive Merit Personnel Act of 1978 as amended, D.C. Official Code Sec.1-623.01 <i>et. seq.</i>	http://dcccocode.westgroup.com
2	D.C. Law	Police and Firefighters Disability, 5 U.S.C. § 6324, D.C. Official Code 5-707 (2001, 2003 Supp.)	http://dcccocode.westgroup.com
3		List of Agencies and Number of Employees	Attachment J.10

C.3 DEFINITIONS

The terms listed in C.3.1 through C.3.36 are defined as follows when used in the contract:

- C.3.1 Activity Checks and Surveillance** – Investigation and video surveillance of any D.C. government employee enrolled in the DCP to determine their current activities and work status.
- C.3.2 Additional Medical Examination (AME)** – An examination obtained by the Disability Compensation Program, other than a medical examination obtained from the treating physician. It replaces the term “Independent Medical Examination” or “IME” because all health care professionals who provide services to injured employees in connection with the Disability Compensation Program are paid for by the Program. These professionals are required to exercise and display professional, independent medical judgment at all times. An AME includes a brief review of the patient history and treatment to date and a physical examination of the employee. The purpose of the examination is to assist the physician in making a medical determination as to causation of the injury, current physical impairment, and the necessity of current and future treatment.
- C.3.3 Administrative** - Of or relating to the act or process of administering; performance of executive duties; management; to manage or supervise the execution, use, or conduct of.
- C.3.4 Case Management** – The process of proactively monitoring a claim while it remains open. This process includes but is not limited to the initial investigation to determine compensability, ongoing medical case management, i.e., following up with the doctors’ for current medical reports and disability status and an aggressive plan of action to bring the file to conclusion. Other factual evidence leading to a determination of eligibility for benefits and of claim status.
- C.3.5 Claims Adjuster** – A person with insurance training or training in handling workers’ compensation claims, who investigates and processes claims filed by injured workers. Also may be referred to as a claims examiner.
- C.3.6 Claims Bureau** – The office within DCORM responsible for the oversight, supervision and administration of the Disability Compensation Program (DCP).
- C.3.7 Composite Audit Score** – The weighted average audit score achieved by the Contractor, for all Performance measures combined, based on the results of the Quarterly Performance Audit (See Attachment J.11).

C.3.8 Continuation of Pay (COP) – Administrative leave (not charged to the Disability Compensation Program) granted an employee if a traumatic injury results in loss of work: 21 days for employees hired after 1980; 45 days for employees hired before 1980.

C.3.9 Diary/Plan of Action - A chronological record or journal of all events, actions, or observations kept daily or at frequent intervals as they occur, together with a detailed formulation of a prospective program of action and goals; an organization tool used to help the Claims Adjuster manage and review all files on their pending. All files should be placed on the adjuster's diary to be reviewed no less than every 60-90 days.

C.3.10 Disability Compensation Program (DCP) – The comprehensive, statutorily-mandated program that defines the coverage, benefits, and requirements of the workers compensation program for District government employees, for which the District is self-insured. The DCP includes awards of compensation benefits and coverage of appropriate medical treatment.

C.3.11 HIPAA Privacy Compliance – See H.12

C.3.12 Incentive Fee Pool - An additional fund set-aside by the District, with a balance not to exceed \$500,000 per year or 10% of the annual contract amount, whichever is less, from which the contractor may earn, and the District will pay, incentive payments to the contractor, to the extent the Contractor's performance exceeds the Acceptable Quality Levels specified in Section C.6.

During the first year of the Base Period of the contract, the amount of the incentive fee pool will not exceed \$375,000 or 10% of the contract value, as the first three (3) months of the contract is the designated transition period and the contractor cannot earn an incentive payment during the transition period.

C.3.13 Incentive and Disincentive Fee Determination Board (IDFDB) – The panel of representatives, chaired by the Contracting Officer's Technical Representative (COTR), and including one or more representatives from the Office of Risk Management (DCORM), and after consideration of the results of the quarterly Performance Audit along with other information, prepares and delivers its recommendation to the Contracting Officer (CO) as to whether or not the Contractor merits a performance-based incentive or disincentive pursuant to Section B.3, and the resulting level of incentive payment or disincentive payment reduction.

The CO makes the final determination of the level of incentive payment or disincentive payment reduction.

- C.3.14 Information Systems** - A set of electronic components and commands that interact with one another, comprised of a set of automated procedures and data processing equipment that, acting together, generate, create, send, select, store, process, and retrieve data. It is computer technology to deal more effectively with the quantitative aspects of risk management. Its purpose is to reduce the uncertainty associated with the unpredictability of accidental losses. The database consists of loss data, exposure data, legal data, financial data, risk control data and risk financing data.
- C.3.15 Investigations** - To track, examine; to observe or study by close examination and systematic inquiry into all relevant facts; to conduct an official inquiry. Three (3) point 24 hour contact: claimant contacted for all facts of accident, treatment and current status, supervisor or someone in authority at the agency for all facts related to the accident, witnesses and any information material to the claim, and medical provider or medical report within 24 hours or one (1) business day of assignment to determine diagnosis, treatment, prognosis and expected return to work, written compensability decision within 14 days or controverted notice and documented reason for all decisions.
- C.3.16 Leave Buy Back** – The optional repurchasing of leave used by a claimant while a decision on an accepted claim was pending.
- C.3.17 Litigation Support** - Assistance to the Office of the Attorney General for the District of Columbia (OAG) or other designated counsel, and the D.C. Office of Risk Management when a lawsuit is brought against the Disability Compensation Program. This shall include, but not be limited, to providing all records, documents, surveillance videotape, audiotape, review of court filings, in order to substantiate OAG and DCORM's case.
- C.3.18 Lost Time** – The period in which an injured worker is unable to work.
- C.3.19 Medical Management** – The ongoing process of closely monitoring the treating physician's diagnosis, recommendation for treatment, disability status and return to work projection.
- C.3.20 Notice of Determination 1 (NOD 1)** - A written notice to the claimant advising him or her that their benefits are being denied, terminated, reduced or suspended. It sets forth the rationale for the adjuster's determination, that is, a full and complete narrative summarizing the basis for the eligibility determination. It is accompanied by key documents and materials relied upon in rendering the determination. It also sets forth the request for reconsideration and appeal processes, and allows for the continuation of payments or medical benefits while a timely-filed reconsideration is pending.
- C.3.21 Notice of Determination 2 (NOD 2)** - A written notice to the claimant advising him or her that their benefits are being denied, terminated,

reduced or suspended, however, it does not provide for the extension of benefits while a request for reconsideration before the D.C. Office of Risk Management is pending.

- C.3.22 Office of Risk Management (DCORM)** – The Agency within the District of Columbia Government, responsible for the coordination and supervision of the Disability Compensation Program activities and operations for District government employees.
- C.3.23 Payment of Wage Replacement** - Compensation payments to an injured employee or his or her dependents. Depending on whether an injury is temporary, permanent, total or partial, the amount of compensation is determined according to a statutory schedule set forth in D.C. Official Code Section 1-623.01 et seq., and is a percentage of the injured employee's monthly pay at the time of the injury.
- C.3.24 Performance Audit** – The systematic application of appropriate procedures, to a set or sample of claims processed by the Contractor, to determine if the Contractor applied specified procedures, rules, or other attributes to the claims selected.
- C.3.25 Performance Quarter** – The three (3) month period from which a sample of the claims processed by the Contractor will be drawn for the Performance Audit (See C.3.21).
- C.3.26 Plan of Action (POA)** – A detailed and concise outline in the file indicating a course of action to bring the file to resolution. The POA should be indicated on every diary review as well as being aggressively followed to bring the file to conclusion.
- C.3.27 Preferred Provider Organization** – The group of medical and ancillary service providers in a network with whom the Contractor has established a relationship.
- C.3.28 Reopen or Reestablish Case Files** - To reconsider a claimant's eligibility based on newly-acquired facts or a recurrence of an injury. The process of reopening and investigating a workers' compensation claim that was subsequently closed.
- C.3.29 Reserves** – The amount of money allocated to an individual claim to cover expected future payments for that claim. To include the total exposure for lost wages, permanency, medical treatment and expenses during the life of the claim.
- C.3.30 Return to Work (RTW)** – Return of the employee to the duty or occupation which the employee was performing at the time of injury, or to other suitable gainful employment. This may entail restricted or full duty.

- C.3.31 Settlement** – Agreement of both parties on a set amount which the D.C. Office of Risk Management, and its counsel, approve. The settlement can be either a lump sum or a structured payment to conclusively resolve a claim.
- C.3.32 Subrogation** - A principle of law that enables the Disability Compensation Program, after paying a loss to its employee, to recover the amount of the loss from another party who is legally responsible for it. It is the assumption by the DCP of the employee's legal right to collect a debt or damages from a third party.
- C.3.33 Three Point Contact** – 24-hour employee, employer/supervisor and healthcare provider contact evidenced and documented in file.
- C.3.34 Transition** – Activities that must take place between the time of contract award and the beginning of operations.
- C.3.35 Utilization Review** - Procedures used by medical practitioners and employers in evaluating the necessity, quality and appropriateness of medical care in disability compensation cases. These procedures also evaluate compliance with PPO physicians' treatment, surgical care provided in inpatient and outpatient settings, and appropriateness of rehabilitation and vocational services. This includes hospital or other bill audits on all bills over \$10,000 and one hundred percent (100%) compliance with pre-surgery certifications on all cases in which surgery is either required or requested.
- C.3.36 Vendor** – A provider of treatment services to and for injured workers of the Government of the District of Columbia.

C.4 BACKGROUND

- C.4.1** The District of Columbia Office of Risk Management (DCORM), Claims Bureau, is responsible for the oversight, supervision and administration of the Disability Compensation Program (DCP), which covers approximately 33,378 employees. The DCP is a comprehensive, statutorily mandated, self-insured workers compensation program applicable to District government employees. Its purpose is threefold:
- C.4.1.1** To award compensation benefits to injured workers covered by the statute, and to eligible survivors of employees whose cause of death was directly attributable to a work injury or occupational illness;
- C.4.1.2** To provide funding for appropriate medical treatment, including emergency medical care, after a District employee sustains an injury or an illness on the job; and
- C.4.1.3** To facilitate expeditious Return to Work for the claimants.

C.4.2 The majority of active cases originate in the DC Public Schools, the Department of Corrections and the Department of Public Works. The majority of claimants live in the District of Columbia, Maryland and Virginia. Fewer than 100 claimants currently receiving DCP payments live outside the greater District of Columbia metropolitan area and receive services in the areas in which they reside.

C.4.3 There are currently approximately 1000 bi-weekly payroll cases. These are claims that have been accepted for compensation and medical benefits. Roughly 95% of these cases require ongoing management to determine the claimant's current medical condition and the entitlement to compensation and/or medical benefits. Less than 1% of these cases include permanently totally disabled claimants who require management to assure timely periodic payments of compensation, the proper medical benefits or the provision of prostheses. The remaining 4% represent payments of scheduled awards and death benefits.

C.4.4 In FY 2003:

- 851 new lost time claims were reported
- 950 medical only claims reported
- 88 cases reopened

DCORM expects that in FY 2005 the number of cases outlined for each agency will remain approximately the same. Historically, the majority of DCP cases have been traumatic injuries with a need for orthopedic, radiological and neurological evaluation and treatment. The following diagnoses are most common:

- Sprains
- Carpal tunnel syndrome
- Stress Claims

C.4.5 **Current Operations**

DCORM currently uses the claims management assistance of a TPA. The TPA is regarded as an agent of the DCORM Claims Bureau, and is managed as such. This relationship includes communication of performance expectations and evaluations and District's claims-specific decisions, which complement expected best practices in claims management by the TPA.

C.5 **REQUIREMENTS**

C.5.1 The Contractor shall furnish all management, labor, supervision, transportation, equipment and materials necessary for the inclusive operation of the District of Columbia's Self-Insured Workers

Compensation Program as a Third Party Claims Administrator for the Disability Compensation Program.

The Contractor shall have responsibility for performing the following three major functions:

- Function 1 – Transition (Section C.5.2)
- Function 2 – Ongoing Operations (Sections C.5.3 through C.6)
- Function 3 – Continuity of Services (Section I.9)

C.5.2 Transition (Required for New Awardee)

C.5.2.1 The District desires an orderly and controlled transition of approximately 1800 existing claims data from the current service provider to Contractor's operating facility without interruption of services. To facilitate the transition, the Contractor shall perform the requirements of C.5.2.1.1 through C.5.2.1.4 listed herein:

C.5.2.1.1 Develop and submit to the District for approval, a detailed transition plan within five (5) business days following contract execution.

C.5.2.1.2 Assume and transfer all existing claims data from the current service provider at the beginning of the contract term. Existing claims data is currently available in an electronic format with corresponding paper files.

C.5.2.1.3 Immediately upon receipt of claim file, notify injured workers of the change in administration, and send copies of these notifications to treating physicians, attorneys, rehabilitation vendors, and pharmacies.

C.5.2.1.4 Begin transition activities no later than 10 business days following contract execution (i.e., from the date a final contract document is signed by authorized District and Contractor officials). Transition requirements shall be complete on or before ninety (90) calendar days following contract award.

C.5.3 Ongoing Operations

C.5.3.1 On-Site proposal: The Contractor shall operate the Disability Compensation Program (DCP) with the dedicated staff set forth in Section B.1.2, at the DCORM Claims Bureau, in accordance with the requirements listed in Sections C.5.4 through C.5.22.3, and with the Performance Measures and Standards contained in Section C.6. The Contractor shall perform these functions within the District's space identified in Section B.1.2.1, and in accordance with Contractor's space requirements and physical plan identified in its technical proposal. The Contractor shall not be required to perform the following services on-site:

1. C.5.9 - Nurse Case Management;
2. C.5.10 – Rehabilitation Services;

3. C.5.11 – Additional Medical Examinations;
4. C.5.12 – Utilization Review; and
5. C.5.13 – Return to Work

C.5.3.2 Off-Site proposal: The Contractor shall operate the Disability Compensation Program (DCP) with the dedicated staff set forth in Section B.12, in its own facility in a manner that physically separates the DCP from any other functions performed within Contractor's facility, and in accordance with the requirements listed in Sections C.5.4 through C.5.22.3, and with the Performance Measures and Standards contained in Section C.6.

C.5.4 Investigations

C.5.4.1 The Contractor shall conduct all necessary investigations to substantiate initial and continuing eligibility for benefits and shall ensure against overpayments and fraud.

C.5.4.2 Contractor investigations shall include consideration of severity of injury, potential extent of disability, questions of eligibility for compensation, verification that the accident or injury occurred on the job and opportunities for subrogation.

C.5.4.3 Contractor investigations shall pertain to new, on-going and reopened claims.

C.5.4.4 Contractor shall ensure that three-point 24-hour contact is completed on each new lost time claim or that reasonable attempts to complete the three-point 24-hour requirement is evidenced and documented in each file. Reasonable attempts shall mean three or more spaced telephone calls on the day of assignment and the day after. Unsuccessful attempts to contact the parties must be followed by a letter advising that the adjuster must speak to the party. Efforts of attempt to contact all three parties must be included in the claim file notes. Contact includes but is not limited to the requirements of C.5.4.4.1 through C.5.4.4.3 listed herein:

C.5.4.4.1 Employee – to verify description of accident, medical/disability status with names of medical providers, job benefits and wage information obtain;

C.5.4.4.2 Employer/Supervisor – to verify description of accident, in the course of and scope of employment, injury, disability status, return to work possibilities and any other pertinent information; and

C.5.4.4.3 Healthcare Provider – to establish history of injury, diagnosis, prognosis, to confirm that work abilities are provided so that employee can return to work as quickly as medically possible.

- C.5.4.5** Contractor shall document and include in the claim file, any contact and statements from witnesses to the claim.
- C.5.4.6** Contractor shall investigate and pursue any indication or suspicion of a fraudulent claim.
- C.5.4.7** Contractor investigations shall include but are not limited to copies of protocols that address special investigations.
- C.5.4.8** Contractor shall confer with the COTR on the locations, units, results and recommended actions for all investigations.
- C.5.4.9** Contractor shall provide index information on all cases to the Central Index Bureau (CIB) within fifteen (15) days of case receipt. Contractor shall re-index each case every six (6) months until the case is closed.
- C.5.4.10** Contractor shall document all CIB reports in the case file.
- C.5.4.11** Contractor shall research all such information provided. In the event such research indicates previous claim history, Contractor shall investigate in accordance with the provisions of this section.
- C.5.5** **Payment of Wage Replacement**
- C.5.5.1** The Contractor shall issue a NOD 1 or NOD 2 compensability decision to each claimant and respective agency contact within twenty-one (21) days after a claim is filed, and shall provide in detail the reasons for such denial or deferrals, and appeal rights, or shall approve compensation pay to the claimant.
- C.5.5.2** Contractor shall terminate compensation pay to the claimant within fourteen (14) days after an authorized NOD 1 compensability decision is rendered by the Contractor and the Continuation of Pay (COP) period has expired.
- C.5.5.3** Contractor shall investigate all claims, both medical and wage replacement, to determine compensability prior to any payment being authorized.
- C.5.6** **Subrogation**
- C.5.6.1** The Contractor shall investigate and pursue all cases involving possible third party recoveries.
- C.5.6.2** Contractor shall notify the COTR within one (1) business day of any cases involving potential subrogation and shall send letter notification of potential lien to all potential third party tortfeasors.
- C.5.6.3** Contractor shall forward the claim to DCORM and as required by DCORM to the Office of the Attorney General for the District of Columbia (OAG) to

file third-party actions to recover monies for the Disability Compensation Fund.

C.5.6.4 Contractor shall ensure that preservation of evidence is maintained throughout the life of the claimant file.

C.5.6.5 Contractor shall preserve all physical evidence, including electronic evidence, photographs, videos, physical dimensions and conditions that may provide subrogation potential and address compensability issues.

C.5.6.6 Contractor shall make referrals to the COTR within seven (7) calendar days of discovery and determination of all cases with potential claims against third parties for subrogation or coordination of benefits and all cases where the resolution of the statutory lien may be necessary to recover settlement awards from claimants.

C.5.6.7 Contractor shall provide the COTR and OAG with assistance in obtaining additional information, conducting investigations and providing litigation support.

C.5.6.8 Contractor shall notify the claimant and all involved parties of the notice of lien.

C.5.6.9 Contractor shall enter and maintain the injury and subrogation information, including clear and specific injury code data into the data base system.

C.5.6.10 Contractor shall follow up on the notice of lien with notice to claim file.

C.5.7 Activity Checks and Surveillance

C.5.7.1 The Contractor shall hold annual face-to-face visits with both claimant and beneficiaries in fatal and total permanency cases and in temporary total (TT) cases that are more than two years old.

C.5.7.2 Contractor shall notify the COTR of activity checks and surveillance reports and shall discuss them with the designated claim personnel when:

C.5.7.2.1 Indications of potential fraud, including any suspicious behavior as reported by the doctor, or when the medical information does not coincide with the claimant's reported activity;

C.5.7.3 The Contractor shall ensure that all surveillance assignments are documented in writing.

C.5.7.3.1 Contractor shall provide the investigator with a description of the claimant, information related to the claimant, the reason for the request, the number of hours to work on the case and any other pertinent information to increase the potential for significant findings.

C.5.7.3.2 Contractor shall ensure that written surveillance reports are required and included in the claim file at minimum every 30 days.

C.5.8 Medical Management

C.5.8.1 The Contractor shall establish a panel of local preferred physicians, specialists, clinics and hospitals (orthopedic, neurology) based on DCORM's Disability Compensation Program (DCP).

C.5.8.2 Contractor shall maintain and provide a listing of Preferred Provider Organizations (PPO) to employees upon notification of injury or illness. Contractor shall also provide current PPO listing to Agency Human Resource Advisors. To the maximum extent possible, Contractor shall include the 100 out-of-area benefits recipients within a PPO.

C.5.8.3 Contractor shall keep the list of approved physicians current and promotes the use of PPO.

C. 5.8.4 Contractor shall maintain a PPO Directory accessible online 365 days a year, 7 days a week, 24 hours per day.

C.5.8.5 Contractor shall maintain a 1-800 Help Desk phone number to receive questions and provide panel network information.

C.5.8.6 Contractor shall arrange and control inside and outside medical management services to include but not limited to prospective utilization approval and case management.

C.5.9 Nurse Case Management

C.5.9.1 The Contractor shall consider medical management for assignment on all cases where lost time will exceed two weeks, and as appropriate, shall assign a Nurse Case Manager (NCM) to each such case.

C.5.9.2 Contractor shall ensure that NCM make contact with the claimant within one (1) business day of receipt of the assignment and shall contact the agency contact person within two (2) business days.

C.5.9.3 Contractor shall ensure that NCM is involved in medical coordination and medical necessity and denial of medical care based on the appropriateness of medical services with required tracking and follow up.

C.5.9.4 Contractor shall ensure that NCM reports include action plans and be provided at 30 day intervals or sooner if there is a significant case development.

C.5.9.5 Contractor shall ensure that all NCM's are licensed nurses and accredited in a clinical setting and possess experience as an NCM in the state where they are performing case management.

C.5.9.6 Contractor shall ensure that the NCM and the claims adjuster document the case files notes electronically and have access to each other's case file notes.

C.5.10 Rehabilitation Services

C.5.10.1 The Contractor shall consider assignment of rehabilitation services on each case where lost time exceeds four (4) months or sooner if the nature of the injury dictates such consideration.

C.5.10.2 Contractor shall ensure that all physical and vocational rehabilitation counselors utilized for this contract are licensed and accredited in the jurisdiction where they are performing case management and that each possesses experience in physical or vocational rehabilitation, or in a clinical setting.

C.5.11 Additional Medical Examinations (AME)

C.5.11.1 The Contractor shall schedule additional medical examinations when one or more of the events listed in C.5.11.1.1 through C.5.11.1.5 occur:

C.5.11.1.1 Diagnosis does not match criteria, proposed disability duration is significantly longer than guidelines, and treatment does not match criteria;

C.5.11.1.2 Claim management indicators are conflicting (in which case Contractor shall provide input to confirm the basis for continued eligibility under the Act);

C.5.11.1.3 Surgery is recommended;

C.5.11.1.4 There is a question on the underlying opinion;

C.5.11.1.5 The file indicates a reason to verify the consistency of treatment or that the care provided is appropriate, adequate and solely for the injury incurred in the performance of duty.

C.5.11.2 Contractor shall forward all requests for additional medical examination(s) to the physician in writing.

C.5.11.3 Contractor shall ensure that each request for additional medical examination(s) explain the reasons for the examination.

- C.5.11.4** Contractor shall provide the physician providing the additional medical examination(s) with all medical records, including but not limited to, doctors notes, X-rays, diagnostics notes and reports at least seven (7) days prior to the exam (except in emergency situations).
- C.5.11.5** Contractor shall contact the claimant prior to the additional medical examination and explain the process, confirm claimant's attendance and shall make any necessary travel arrangements.
- C.5.11.6** Contractor shall document a missed appointment by a claimant, arrange a follow up appointment and contact the claimant within one (1) business day of scheduling.
- C.5.11.7** Contractor shall provide written follow up to claimant within seventy-two (72) hours of the contact concerning the need to cure the missed appointment and the new appointment date.
- C.5.12 Utilization Review**
- C.5.12.1** The Contractor shall provide cost management services to include but be not limited to the items listed in C.5.12.1.1 through C.5.12.1.8 herein:
- C.5.12.1.1** Analysis of diagnosis based on objective findings;
- C.5.12.1.2** A quarterly savings report to be submitted to the COTR showing savings between submitted and re-priced medical charges;
- C.5.12.1.3** Hospital Medical Pre-Certification;
- C.5.12.1.4** Fee bill audits;
- C.5.12.1.5** Fee schedule reduction;
- C.5.12.1.6** Adjustment of all medical bills to the fee schedule or "usual and customary" fees, (with a turnaround time of no greater than ten (10) consecutive days);
- C.5.12.1.7** PPO discounting; and
- C.5.12.1.8** Usual and customary review (UCR) to include a fee negotiation agreement with the treating physician, care provider and medical facility.
- C.5.12.2** Contractor shall ensure all medical bills are reviewed for causality and relation to the injury.
- C.5.12.3** Contractor shall provide the COTR in an electronic format, weekly pre-fund and supplemental pre-fund reports that include detail and summary information to support all invoices and estimates of amounts needed for wage replacement payments.

- C.5.12.4** Contractor shall utilize, but not be limited to, the utilization of Presly Reed source, as the standard disability duration guideline.
- C.5.12.5** Contractor shall document why subsequent treatment is required for the diagnosis listed in C.5.12.5.1 through C.5.12.5.5 herein:
- C.5.12.5.1** Back pain (all ICD-9 codes);
- C.5.12.5.2** Wrist pain (all ICD-9 codes);
- C.5.12.5.3** Knee strain (all ICD-9 codes);
- C.5.12.5.4** Ankle strains (all ICD-9 codes); and
- C.5.12.5.5** Fractures (all ICD-9 codes).
- C.5.12.6** Contractor shall ensure that the Utilization Review program has at a minimum, the American Accreditation HealthCare Commission (URAC) certification.
- C.5.13** **Return to Work (RTW)**
- C.5.13.1** The Contractor shall ensure that the NCM is familiar with the District of Columbia job functions and that this information is communicated to the treating physician.
- C.5.13.2** Contractor shall develop a RTW plan with a time line recorded in the file within two (2) business days of receipt of a lost time case.
- C.5.13.3** Contractor shall meet weekly with the COTR to discuss all ongoing lost time cases to encourage RTW.
- C.5.14** **Litigation Support**
- C.5.14.1** The Contractor shall provide the COTR litigation support and shall cooperate in preparing for litigation involving fraud, false claims, and subrogation or coordination of benefits, including production of documents, making witnesses available and advising the OAG during litigation.
- C.5.14.2** Contractor shall prepare a copy of the file and shall include a detailed summary of the facts surrounding the disputed matter and the applicable code relied on in the denial.
- C.5.14.3** Contractor shall transmit file to COTR within five (5) days of request along with recommendations to the COTR regarding defense or payment.

- C.5.14.4** Contractor shall notify the COTR of dates and location of DCP hearings via e-mail within one (1) business day of receipt of the notice of hearing. This requirement also applies to (but is not limited to) mediations, settlement conferences, and subpoenas.
- C.5.14.5** Contractor shall communicate the outcomes of all hearings, meetings and conferences to the COTR via email within one (1) business day after the event and shall document the claim file with such outcomes.
- C.5.15** **Payment of Claims**
- C.5.15.1** The Contractor on behalf of the District shall pay claims to employees in accordance with C.5.15.1.1 through C.5.15.1.5 listed herein:
- C.5.15.1.1** Calculate payment for employee compensation, including but not limited to verification of an employee's average wage from the appropriate District agency contact person and calculation of loss of wage benefits;
- C.5.15.1.2** Verify the relationship of dependents for assigned payments (via birth certificates, guardianship and or adoptions papers);
- C.5.15.1.3** Submit for COTR review, weekly pre-fund report that includes both vendor and claimant payments;
- C.5.15.1.4** Generate and issue checks each Friday to vendors and claimants; and
- C.5.15.1.5** Approve all medical and vendor bills for services utilizing the appropriate fee reduction methods and ensure that bills are paid within thirty (30) days of receipt.
- C.5.15.2** Notwithstanding COTR's approval to pay, the Contractor shall reimburse the District for any incorrect, duplicate or erroneous payments caused by its own error, negligence, employee fraud or theft.
- C.5.16** **Settlements**
- C.5.16.1** The Contractor shall consult with the COTR to have all proposed settlements approved.
- C.5.16.2** Contractor shall identify claims with possible adverse liability and make recommendations for settlement as soon as the file review indicates within two (2) business days of known information.
- C.5.16.3** Contractor shall send a written request for settlement authority to the COTR on all cases prior to initiation of settlement negotiations. The written request shall include at a minimum, the items listed in C.5.16.3.1 through C.5.16.3.11 herein:

- C.5.16.3.1** Claim number, Date of Injury (DOI), name job, years of service;
- C.5.16.3.2** Injury description;
- C.5.16.3.3** Objective findings;
- C.5.16.3.4** Lost-time weeks;
- C.5.16.3.5** Final diagnosis and prognosis;
- C.5.16.3.6** Current employment status;
- C.5.16.3.7** Attorney involvement;
- C.5.16.3.8** PPD exposure amount;
- C.5.16.3.9** Calculation/formula for PPD settlement;
- C.5.16.3.10** Financials for indemnity, medical and allocated loss expense (paid and reserved); and
- C.5.16.3.11** Recovery potential of any subrogation.
- C.5.17 Reserves**
 - C.5.17.1** The Contractor shall establish, on a probable ultimate cost basis, a reserve amount with the initial reserve set within ten (10) days of receipt of the claim.
 - C.5.17.2** Contractor shall determine a reserve amount based on current medical diagnosis and other factual information, including disability duration guidelines and shall confirm the reserve accuracy at each diary review.
 - C.5.17.3** Contractor shall avoid using "stepladder" or stair step reserving to meet the current expenditures on the claim and reserve to meet the probable or expected total cost of the claim based on current available information.
 - C.5.17.4** Contractor shall notify the COTR in writing of any initial reserves or reserve adjustment greater than \$50,000.
- C.5.18 Diary/Plan of Action/File Management**
 - C.5.18.1** The Contractor shall maintain a diary on all open files.
 - C.5.18.2** Contractor shall review Temporary and Total Disability (TTD) files on a monthly basis.

- C.5.18.3** Contractor shall develop a plan of action in the file with a timeline that provides information on how the claim adjuster intends to move the claim to closure.
- C.5.18.4** Contractor shall ensure that the Claims Supervisor document his or her activities to the claim file on a continuing basis.
- C.5.18.5** Contractor shall send written notification to claimant of reassignment of claims adjuster, to include name or new adjuster, claim number, and contact phone number.
- C.5.19 Reopen or Reestablish Case Files**
- C.5.19.1** The Contractor shall reopen, reconstruct or reestablish case files including the processing and adjudication of claims involving recurrences of disability.
- C.5.19.2** Contractor shall identify and reconstruct lost files.
- C.5.20 Leave Buy-Back Requests**
- C.5.20.1** The Contractor shall calculate and confirm Leave Buy-Back requests for COTR authorization.
- C.5.21 Communication/Reviews**
- C.5.21.1** The Contractor shall meet with the COTR monthly.
- C.5.21.2** Contractor shall make all files available to the COTR immediately upon request.
- C.5.21.3** Contractor shall respond within ten (10) days of receipt of audit evaluations and shall review reports with answers to findings and a plan of action where indicated.
- C.5.21.4** Contractor shall notify the COTR within one (1) business day of any unforeseen problems that arise for which Contractor cannot determine an appropriate course for resolution.
- C.5.21.5** Contractor shall provide the COTR with detailed monthly claims summary reports sorted by agency, Date of Report with specific detail and criteria which includes at a minimum the following:
- C.5.21.5.1** All open claims and claims closed during the month for each Agency and claims which had payment during the month; Comp and Medical Claims reported during the month; Claims re-opened during the month; Number of claims closed during the month; Current pending claims (lost time and medical); Claimant Name and Claim Number; Date of report of claim; Event Date; Body Parts; Cause; Injury; Status of Claim (open or close); Type; Days

lost for; Comp paid for each claim to date; Medical paid for each claim to date; Current reserves for comp and Medical as of the end of the month; Total incurred (Comp Paid + Med Paid + Comp Reserve + Med Reserve); Total for agency to be given; and Grand total to be given.

C.5.22 Information Systems (IS)

C.5.22.1 The Contractor shall provide the COTR with 24 hour, 7 days a week access to claimants' files electronically via web-based or electronic linkage.

C.5.22.2 Contractor shall have e-mail and voice mail capabilities for twenty (20) two-minute messages for adjusters and employees. Contractor shall comply with the District-wide Customer Service Voice Mail and Telephone Standards. (Attachment J.11)

C.5.22.3 Contractor shall provide weekly downloads of its IS data into DCORM's RMIS at Contractor's close of business every Friday.

C.6 PERFORMANCE MEASURES AND STANDARDS

As noted in Section B.3, if the Contractor's composite audit score, as defined in Section C.3.7, exceeds 95%, the Contractor will earn an incentive fee. If the Contractor earns a composite audit score of less than 95%, the District will reduce the contractor's payment.

The District will use the table below, captioned "Performance Measures and Standards", to define and measure contractor performance, and accordingly, to determine the amount of the Contractor's incentive payment or disincentive payment reduction.

	PERFORMANCE MEASURES AND STANDARDS		
Performance Measure	Performance Standard	Acceptable Quality Level	Method of Surveillance
C.6.1 - Investigations <u>Refer to - Initial Claims Investigation and Determination – Section C.5.4</u>	1. Case files created and assigned same day as received.	95%	File Audit
	2. 3-Point 24 hour employee, employer and healthcare provider contact evidenced and documented on all lost time cases. Contact witness where applicable.	95%	File Audit
	3. Compensability determination made within 21 days of initial case date; or NOD notice issued within 21 days of initial case date.	95%	File Audit
	4. Contact interested parties, statements obtained and file documented on all reopened claims within two business days of reopening of the claim file.	95%	File Audit

Performance Measure	Performance Standard	Acceptable Quality Level	Method of Surveillance
C.6.2 - Payment of Claims <u>Refer to - Section C.5.15</u>	1. Benefits accurately calculated and documented on all files to include calculation workup and all related changes during the life of the claim.	95%	File Audit
	2. All wage benefits will be processed and payment issued within 5 calendar days of benefits due after Continuation of Pay (COP) period ends.	95%	File Audit
	3. Ongoing payments will be paid on a bi-weekly basis consistent with the DPM Instruction.	95%	File Audit
	4. All wage checks will include itemization of deductions, gross and net pay detail.	95%	File Audit
	5. DCORM Pre-fund procedures adhered to on all payment requests.	95%	File Audit
	6. Medical bills on compensable claims appropriately paid within 30 days of receipt.	95%	File Audit

Performance Measure	Performance Standard	Acceptable Quality Level	Method of Surveillance
C.6.3 - Nurse Case Management <u>Refer to - Section C.5.9</u>	1. Nurse Case Manager (NCM) to be assigned on all cases where lost time will exceed 2 months or immediately where the nature of the injury is both chronic and catastrophic.	95%	File Audit
	2. The NCM will contact the employee and medical provider within 24 hours of assignment.	95%	File Audit
	3. NCM to be assigned on all cases where the injured worker does not return to work within estimated length of disability for the injury or illness sustained.	95%	File Audit
	4. NCM is to provide documented tracking of and action plan in the file notes for all cases on a monthly basis.	95%	File Audit

Performance Measure	Performance Standard	Acceptable Quality Level	Method of Surveillance
C.6.4 - Medical Management <u>Refer to - Section C.5.8</u>	1. Maintain and provide a listing of Preferred Provider Organization (PPO) to employees upon notification of injury or illness.	95%	File Audit
	2. Evaluation of the quality and appropriateness of the medical treatment plan is to be documented in the file.	95%	File Audit
	3. Verification of continuing, ongoing disability with supporting medical reports documented in file.	95%	File Audit
C.6.5 - Utilization Review <u>Refer to - Section C.12</u>	1. In-hospital or Out patient Bill Audits to be conducted on all hospital bills or surgical procedures in excess of \$5,000.00.	95%	File Audit
	2. Pre-certification of all requests for surgical intervention and treatment.	95%	File Audit
C.6.6 - Diary/Plan of Action <u>Refer to - Section C.5.18</u>	1. Notification to claimant of adjuster assignment, claim number and contact information in writing. Notification shall be sent whenever there is a change of adjuster.	95%	File Audit
	2. Obtain notarized income verification and continuing disability statement annually on all open cases where disability extends beyond one year.	95%	File Audit
	3. All open files should be on diary and reviewed every 60 days.	95%	File Audit
	4. Documentation that all efforts at placement in the District government for employees with reduced capacity or light duty prior to seeking retraining or vocational rehabilitation.	95%	File Audit
	5. Determination of the appropriateness of rehabilitation and vocational service documented in file.	95%	File Audit

Performance Measure	Performance Standard	Acceptable Quality Level	Method of Surveillance
C.6.7 - Applicable Documents <u>Refer to - Section C.2</u>	1. Documentation or evidence in file of compliance with D.C. Code Chapter 1-623 et seq, District of Columbia Personnel Manual (DPM) and prior instructions.	95%	File Audit
	2. All required District claim forms to be included in file.	95%	File Audit
	3. All attachments to be included on all Notices of Determinations (NODs) 1 & 2.	95%	File Audit
	4. AME medical reports sent to treating physician within five (5) days of receipt.	95%	File Audit
	5. All continuation of compensation payment determinations documented on appropriate NOD and; Copy of NOD to District of Columbia Office of Risk Management (DCORM) with all reasons for decision to be included in the NOD and; Evidence of all NOD's sent via certified mail and regular mail.	95%	File Audit
	6. Appealed denials to the Department of Employment Services (DOES) are upheld through all levels.	90%	File Audit

SECTION D

PACKAGING AND MARKING

This section is not applicable.

SECTION E

INSPECTION AND ACCEPTANCE

E.1 The inspection and acceptance requirements for the resultant contract will be governed by the Inspection of Services Clause in Section 7 of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated April, 2003, Attachment J1.

E.2 Quality Assurance

In addition to the results of its Quarterly Performance Audits, as specified in Section B.3.3.1, the District will continuously evaluate the Contractor's performance under this contract. District personnel will record all surveillance observations. When an observation indicates defective performance, the COTR will notify the contract manager or a representative at the site to initial the observance. The initialing of the observation does not necessarily constitute concurrence with the observation, only acknowledgement that he or she has been made aware of the defective performance. District surveillance of tasks not listed may occur during the performance period of this contract. Such surveillance will be done according to the standard inspection procedures or other contract provisions. Any action taken by the Contracting Officer or the COTR as a result of surveillance will be according to the terms of this contract.

SECTION F

DELIVERIES OR PERFORMANCE

F.1 CONTRACT TYPE

The District contemplates award of a “Fixed-Price Contract with Performance Incentives and Disincentives”.

F.2 TERM OF CONTRACT

The base term of the multiyear contract shall be for a period of three (3) years from date of award specified on page one (1) of the contract.

F.2.1 OPTION PERIOD

F.2.1.1 The District may extend the term of this contract by exercising up to two (2) one-year, option periods.

F.2.1.2 The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

F.2.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.2.1 The District may extend the term of this contract for a period of two (2) one-year option periods, or multiple successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District shall give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

F.2.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.2.3 The price for the option period shall be as specified in the contract.

F.3 OPTION YEAR REQUIREMENTS

The offeror shall include option year prices in its price proposal. An offer may be determined to be unacceptable if it fails to include option year pricing. The District will evaluate offers for award purposes by evaluating the total price for all options as well as the base period. Evaluation of options shall not obligate the District to exercise them. The total District's

requirements may change during the option years. Quantities to be awarded will be determined at the time each option is exercised.

F.4 DELIVERABLES

The deliverables of this contract are set forth below:

F.4.1 The Contractor shall submit all deliverables to the Contracting Officer's Technical Representative (COTR) identified in Section G.8, D.C. Office of Risk Management, One Judiciary Square, 441 4th St. N.W. Suite 800 South, Washington, D.C. 20001, between the hours of 8:30 A.M. to 5:00 P.M., Monday through Friday, exclusive of holidays.

F.4.2 The Contractor shall prepare deliverables including, but not limited to, monthly reports and written findings in individual cases. The COTR reserves the right to reject any and all deliverables which, in the sole judgment of the COTR, do not adequately represent the intended level of completion or standard of performance, do not include all relevant information or data, or do not include all documents specified or reasonably necessary for the purposes for which the DCORM requires the deliverables. Partial or incomplete deliverables may be accepted for review only when required for a specific and well-defined purpose and when consented to in advance by the COTR. The COTR shall not consider such deliverables as satisfying the specific submittal requirements as set forth herein. Partial or incomplete deliverables shall in no way relieve the Contractor of its contractual requirements and commitments. Each month the Contractor shall submit statistical, status, annual, final and other reports supported by internal and external documentation and as appropriate or requested, in the timeframe stated herein.

F.4.3 The Contractor shall provide the following deliverables:

CLIN	Deliverable	Quantity	Format/Method of Delivery	Due Date
	Transition Plan for COTR's approval as stated in Section C.5.2.1.1	1 Copy	Electronic Copy to COTR	5 days following contract execution
	Quarterly Savings Report as stated in Section C.5.12.1.2	1 Copy	Electronic and Hard Copy to COTR	Within 5 days after the end of each Quarter

CLIN	Deliverable	Quantity	Format/Method of Delivery	Due Date
	Weekly Pre-Fund and Supplemental Pre-Fund Reports as stated in Section C.5.12.3	1 Copy	Electronic and Hard Copy to COTR	Weekly – Every Tuesday by 10:00am
	Weekly Discussions with COTR as stated in Section C.5.13.3		Via Telephone	Weekly
	Written Request for Settlement Authority as stated in Section C.5.16.3	1 Copy	Electronic and Hardcopy to COTR	As Needed
	Written Notice of reserves to COTR as stated in Section C.5.17.4	1 Copy	Electronic and Hardcopy to COTR	As Needed
	Monthly Meeting with COTR as stated in Section C.5.21.1		Face-to-Face	Within ten days after the beginning of each month
	Monthly Claims Summary Report as stated in Section C.5.21.5	1 Copy	Electronic and Hard Copy to COTR	Within five days after the beginning of each month
	Quality Control Instructions and Actions taken as stated in Section H.6.1.3	1 Copy	Electronic and Hard Copy to COTR	As Needed

F.4.4 Instructions: Any reports that are required pursuant to H.11.5 of the 51% District Residents New Hires Requirements and First Source Employment Agreement, are to be submitted to the District as a deliverable. If the report is not submitted as part of the deliverables, final payment to the Contractor will not be paid.

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 INVOICE PAYMENT

- G.1.1** The District will make payments to the Contractor, upon the submission of proper invoices or vouchers, at the prices stipulated in this contract, for services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2** Should the District reduce payment of an invoice to the Contractor, the District will provide a written notice to the Contractor of the reason for the adjustment.
- G.1.3** The District will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

- G.2.1** The Contractor shall submit proper invoices on a monthly basis as specified in Section G.4 of this contract. Invoices shall be prepared in duplicate and submitted to the Agency COTR specified in Section G.8.1 below. The address of the COTR is:

DC Office of Risk Management
Attention: Rosenia D. Bailey
441 4th Street, N.W., Suite 800 South
Washington, D.C. 20001

- G.2.2** To constitute a proper invoice, the contractor shall submit the following information:
- G.2.2.1** Contractor's name, Federal tax I.D. number, and invoice date (contractors are encouraged to date invoices as close to the date of mailing or transmittal as possible.);
- G.2.2.2** Contract number (block# 2 on Solicitation Cover Sheet) and encumbrance number (block# 21 on Solicitation Cover Sheet). Assignment of an invoice number by the contractor is also recommended;
- G.2.2.3** Description, price, quantity and the date(s) that the services were actually performed.
- G.2.2.4** Other supporting documentation or information, as required by the Contracting Officer;

- G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.2.2.6** Name, title, phone number of person preparing the invoice;
- G.2.2.7** Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above to be notified in the event of a defective invoice); and
- G.2.2.8** Authorized signature

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

- G.3.1** For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement, final request for payment must be accompanied by the report or a waiver of compliance discussed in H.10.5.
- G.3.2** No final payment shall be made to the Contractor until the COTR has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Resident's New Hires Requirements and First Source Employment Agreement.

G.4 METHOD OF PAYMENT

The District will pay the amount due the Contractor under this contract in accordance with the terms of the contract and upon presentation of a properly executed invoice detailing monthly fee plus any cost reimburseable expenses.

- G.4.1** The District will make incentive payments or deduct disincentive amounts from invoices on a quarterly basis, in accordance with Section B.3.3.

G.5 ASSIGNMENTS

- G.5.1** In accordance with 27 DCMR § 3250, the Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.5.2** Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.
- G.5.3** Notwithstanding an assignment of money claims pursuant to authority contained in the contract, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

Pursuant to the instrument of assignment dated _____,
make payment of this invoice to _____
(name and address of assignee).

G.6 CONTRACTING OFFICER (CO)

Contracts may be entered into and signed on behalf of the District Government only by Contracting Officers. The address and telephone number of the Contracting Officer is:

Jean Wright
Office of Contracting and Procurement
64 P Street, N.E., Room 3132
Washington, D.C. 20002
Phone No. (202) 671-0888

G.7 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.7.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.

G.7.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.

G.7.3 In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.8 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

G.8.1 The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The COTR for this contract is:

Rosenia D. Bailey
Assistant Director, Risk Administrative Services
D.C. Office of Risk Management
441 4th Street, N.W., Suite 800 South
Washington, D.C. 20001
202-727-9308

- G.8.2** It is understood and agreed that the COTR shall not have the authority to make changes in the specifications/scope of work or terms and conditions of the contract.
- G.8.3** Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer, may be denied compensation or other relief for any additional work performed that is not so authorized, and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 DIVERSION, REASSIGNMENT, AND REPLACEMENT OF KEY PERSONNEL

The following positions are considered to be key personnel: Contract Manager, Claims Supervisor, Claims Manager, Senior Claims Adjusters and Nurse Case Managers. The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall, if possible, notify the Contracting Officer's Technical Representative (COTR) at least fourteen (14) calendar days in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact upon the contract. Proposed substitutions of personnel shall be subject to prior review and approval of the COTR.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 1994-2103 (Revision 32, dated May 27, 2004) issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq., 358) and incorporated herein as Attachment J.3 of this solicitation. The Contractor shall be bound by the wage rates for the term of the Contract. If an option is exercised, the Contractor shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer for the option obtains a revised wage determination, that determination is applicable for the option periods; the Contractor may be entitled to an equitable adjustment.

H.3 AUDITS, RECORDS, AND RECORD RETENTION

H.3.1 At any time or times before final payment and three (3) years thereafter, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. For cost reimbursement contracts, any payment may be reduced by amounts found by the Contracting Officer not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the District Government and an overpayment is found, the Contractor shall reimburse the District for said overpayment within thirty (30) days after written notification.

H.3.2 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation.

- H.3.3** The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.
- H.3.4** The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.
- H.3.5** Persons duly authorized by the Contracting Officer shall have full access to and the right to examine any of the Contractor's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- H.3.6** The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

H.4 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractor, either during or after expiration or termination of the contract make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.5 CONFLICT OF INTEREST

- H.5.1** No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code Section 2-310.01 (2001), and Chapter 18 of the DC Personnel Regulations).
- H.5.2** The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

H.6 QUALITY CONTROL PROGRAM

The Contractor shall provide a Quality Control Program (QC) during the performance of this contract as set forth in Sections H6.1 through H6.1.3 herein.

H.6.1 The Contractor shall have a Quality Control Program (QC) that ensures that all requirements of the contract are provided as specified. The Contractor shall continuously improve the QC and document it in a loose-leaf format. The QC Program shall include, but not be limited to the elements set forth in H.6.1.1, H.6.1.2, and H.6.1.3 below:

H.6.1.1 Written work instructions/procedures, processes to implement contractual obligations. The Contractor shall audit the preparation and maintenance of, and compliance with, instructions as a function of its Quality Control Program to assure compliance with or timely changes to instructions. The Contractor shall place the COTR on the document distribution list for all formalized changes to the Contractor's Quality Control Program. The COTR will request a corrective action plan in the event the COTR desires changes to the QC or determines that the Contractor is not in compliance with the QC as written.

H.6.1.2 A method of early detection and correction of assignable conditions adverse to the quality of service, to include analysis of corrective action records (including customer complaints) in order to determine causes of defects. This method will include providing timely written explanations/documentation of the correction of the defectiveness and correction of cause in response to the District's corrective request. The QC Program shall assure that records are complete and reliable. Reliable records are objective evidence of the existing or past quality of services.

H.6.1.3 Written work instructions in accordance with Section H.6.1.1 to implement quality trend analysis and documentation of management action taken as a result of quality data (including Contractor and District records, complaints and audit results).

H.7 DISTRICT OBLIGATIONS

The Government of the District of Columbia will have the following obligations during the performance of this contract as set forth in Sections H.7.1 through H.7.5 herein.

H.7.1 The District will provide the Contractor orientation on administrative procedures, program goals and practices related to activities of the DCORM.

H.7.2 The administration of the DCP will be under the direction of the DCORM. The COTR will approve the Contractor's plan for administration and delivery of services to claimants, including program documents, pamphlets, I.D. cards, and any changes in awards. The COTR will guide and assist the Contractor in the dissemination of information by the Contractor to inform claimants of the Program provisions. The COTR will conduct periodic customer satisfaction surveys to evaluate the services provided including quality of care, responsiveness to requests for services, and the accessibility of network providers. The COTR will audit all invoices for claim fees, allocated expenses, including managed care fees and charges, RMIS charges and any other costs or fees associated with this program. The COTR will conduct ongoing audits to ensure compliance

H.7.3 The District, through DCORM, will be responsible for coordinating any and all litigation requirements.

H.7.4 The District will randomly audit Pre-Fund Reports to ensure Contractor accuracy.

H.7.5 The COTR will provide the Contractor with specific details to be included in the monthly claim summary report.

H.8 GOVERNMENT-FURNISHED PROPERTY (ON-SITE)

Should the District accept the Contractor's On-Site proposal to operate the DCP at the DCORM Claims Bureau, the District will provide Government-Furnished Property in accordance with H.8.1 through H.8.4.

H.8.1 The District shall deliver to the Contractor, at the time and locations stated in this contract, the following supplies, materials and equipment listed below in the District's facility:

1. Office Supplies;
2. Claims Files (hard copies), Claims Database (electronically), District Government forms, and File Storage; and
3. Computers, and access to office equipment including telecommunications, facsimile, copiers and scanners.

If property suitable for its intended use is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the Changes clause in the Standard Contract Provisions (Attachment J.1) when:

H.8.1.1 The Contractor submits a timely written request for an equitable adjustment; and

H.8.1.2 The facts warrant an equitable adjustment.

H.8.2 Title to Government-furnished property shall remain in the Government. The Contractor shall use the Government-furnished property only in connection with this contract. The Contractor shall maintain adequate property controls records in accordance with sound industrial practice and will make such records available for Government inspection at all reasonable times.

H.8.3 Upon delivery of Government-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except:

H.8.3.1 Reasonable wear and tear;

H.8.3.2 To the extent property is consumed in performing this contract; or

H.8.3.3 As otherwise provided for by the provision of this contract.

H.8.4 Upon completing this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all Government-furnished property not consumed in performing this contract or previously delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government-furnished property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as directed by the Contracting Officer.

H.9 GOVERNMENT-FURNISHED PROPERTY (OFF-SITE)

Should the District accept the Contractor's Off-Site proposal to operate the DCP at the Contractor's facility, the District will provide Government-Furnished Property in accordance with H.9.1 through H.9.4.

H.9.1 The District shall deliver to the Contractor, at the time and locations stated in this contract, the following supplies, materials and equipment listed below in the Contractor's facility:

1. Claims Files (hard copies), Claims Database (electronically), District Government forms, and File Storage.

If property suitable for its intended use is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the Changes clause in the Standard Contract Provisions (Attachment J.1) when:

H.9.1.1 The Contractor submits a timely written request for an equitable adjustment; and

- H.9.1.2** The facts warrant an equitable adjustment.
- H.9.2** Title to Government-furnished property shall remain in the Government. The Contractor shall use the Government-furnished property only in connection with this contract. The Contractor shall maintain adequate property controls records in accordance with sound industrial practice and will make such records available for Government inspection at all reasonable times.
- H.9.3** Upon delivery of Government-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except:
- H.9.3.1** Reasonable wear and tear;
- H.9.3.2** To the extent property is consumed in performing this contract; or
- H.9.3.3** As otherwise provided for by the provision of this contract.
- H.8.4** Upon completing this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all Government-furnished property not consumed in performing this contract or previously delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government-furnished property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as directed by the Contracting Officer.
- H.10 GOVERNMENT-FURNISHED FACILITY**
- Should the District accept the Contractor's On-Site proposal to operate the DCP at the DCORM Claims Bureau, the District will provide Government-Furnished Facility in accordance with H.10.1 through H.10.6.
- H.10.1** Work will be performed at the facility located at 441 4th Street, N.W., Washington, D.C. This facility will remain the property of the District.
- H.10.2** The District Government reserves the right to inspect all areas of the facility at any given time. The Contractor shall not use the facility for commercial work unless otherwise directed or permitted in writing by the Contracting Officer.
- H.10.3** The District Government shall also provide Government-owned equipment, materials, tools, manuals and furniture located in the DCORM. All equipment added during the term of the contract, and approved by the Government prior to acquisition, shall become the property of the Government. The physical facility, office and shop equipment provided to the Contractor for the term of the contract shall be returned to the

Government upon completion of the contract in the same condition they were provided to the Contractor, except for normal wear and tear.

H.10.4 Between the date of contract award and the date the Contractor actually occupies the facility, the COTR and the Contractor shall take a complete physical inventory of office and shop equipment. The COTR and the Contractor shall repeat the inventory annually.

H.10.5 The District Government will supply gas, water, and electricity at no cost to the Contractor. The facility will include telephones. Only long-distance phone calls associated with the management of the Disability Compensation Program shall be included in the offeror's target price.

H.10.6 The physical facility will be maintained by the Government, including repairs, maintenance, and/or renovations, with the Contractor being responsible for informing the Government of degraded conditions and the need for replacement or renovations. The Contractor shall not hold the District of Columbia liable for injury to persons or property caused by fire, theft, resulting from the operation of heating, air conditioning, or lighting apparatus, falling plaster, steam, gas, electricity, water, rain, or dampness, which may leak from or through any part of the facility, or pipes, appliances or plumbing, unless the need for such repairs are reported to the Government.

H.11 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.11.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 *et seq.* ("First Source Act").

H.11.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, in which the contractor shall agree that:

- (1) The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services ("DOES"); and
- (2) The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

H.11.3 The Contractor shall submit to DOES, no later than the 10th each month following execution of the contract, a First Source Agreement Contract Compliance Report ("contract compliance report") verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

- (1) Number of employees needed;

- (2) Number of current employees transferred;
- (3) Number of new job openings created;
- (4) Number of job openings listed with DOES;
- (5) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- (6) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:
 - (a) Name;
 - (b) Social Security number;
 - (c) Job title;
 - (d) Hire date;
 - (e) Residence; and
 - (f) Referral source for all new hires.

H.11.4 If the contract amount is equal to or greater than \$100,000, the contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.11.5 With the submission of the contractor's final request for payment from the District, the contractor shall:

- (1) Document in a report to the Contracting Officer its compliance with the section H.11.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.11.4 and include the following documentation:
 - (a) Material supporting a good faith effort to comply;
 - (b) Referrals provided by DOES and other referral sources;
 - (c) Advertisement of job openings listed with DOES and other referral sources; and
 - (d) Any documentation supporting the waiver request pursuant to section H.11.6.

H.11.6 The Contracting Officer may waive the provisions of section H.11.4 if the Contracting Officer finds that:

- (1) A good faith effort to comply is demonstrated by the contractor;
- (2) The contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which includes the District of Columbia; the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges,

Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

- (3) The contractor enters into a special workforce development training or placement arrangement with DOES; or
- (4) DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.11.7 Upon receipt of the contractor's final payment request and related documentation pursuant to sections H.11.5 and H.11.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.11.4 or whether a waiver of compliance pursuant to section H.11.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two business days of making the determination forward a copy of the determination to the COTR.

H.11.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.11.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The contractor shall make payment to DOES. The contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the contracting officer pursuant to this section H.11.8.

H.11.9 The provisions of sections H.11.4 through H.11.8 do not apply to nonprofit organizations.

H.12 HIPAA PRIVACY COMPLIANCE

(1) Definitions

(a) *Business Associate*. "Business Associate" shall mean [Insert Name of Contractor].

(b) *Covered Entity*. "Covered Entity" shall mean DCORM.

(c) *Designated Record Set* means:

1. A group of records maintained by or for Covered Entity that is:

(i) The medical records and billing records about individuals maintained by or for a covered health care provider;

(ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or

(iii) Used, in whole or in part, by or for Covered Entity to make decisions about individuals.

2. For purposes of this paragraph, the term *record* means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for Covered Entity.

(d) *Individual* shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

(e) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

(f) *Protected Health Information*. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(g) *Required By Law*. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.

(h) *Secretary*. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(2) Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this HIPAA Privacy Compliance Clause (this Clause) or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Clause.

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Clause.

(d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Clause of which it becomes aware.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(f) Business Associate agrees to provide access, at the request of Covered Entity to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual.

(h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Covered Entity, or to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

(i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(j) Business Associate agrees to provide to Covered Entity or an Individual information collected in accordance with Section (i) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(3) Permitted Uses and Disclosures by Business Associate

(a) *Refer to underlying services agreement:*

Except as otherwise limited in this Clause, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract resulting from this solicitation, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

(b) Except as otherwise limited in this Clause, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this Clause, Business Associate may disclose Protected Health Information for the proper

management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this Clause, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

(4) Obligations of Covered Entity

(a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

(5) Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

(6) Term and Termination

(a) *Term.* The requirements of this HIPAA Privacy Compliance Clause shall be effective as of the date of contract award, and shall terminate when all of the Protected Health Information provided

by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) *Termination for Cause.* Upon Covered Entity's knowledge of a material breach of this Clause by Business Associate, Covered Entity shall either:

(1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(2) Immediately terminate the contract if Business Associate has breached a material term of this HIPAA Privacy Compliance Clause and cure is not possible; or

(3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(c) *Effect of Termination.*

(1) Except as provided in paragraph (2) of this section, upon termination of the contract, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon determination by the Contracting Officer that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(7) Miscellaneous

(a) *Regulatory References.* A reference in this Clause to a section in the Privacy Rule means the section as in effect or as amended.

(b) *Amendment.* The Parties agree to take such action as is necessary to amend this Clause from time to time as is necessary

for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.

(c) *Survival.* The respective rights and obligations of Business Associate under Section (6) of this Clause and Sections 9 and 20 of the Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts, effective April 2003, shall survive termination of the contract.

(d) *Interpretation.* Any ambiguity in this Clause shall be resolved to permit Covered Entity to comply with the Privacy Rule.

SECTION I

CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated April 2003 (Attachment J.1) are incorporated as part of the contract resulting from this solicitation.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this contract beyond the fiscal year is contingent upon future fiscal appropriations. In accordance with Section F.2, Term of Contract, in the event of cancellation of the contract because of non-appropriation of funds for fiscal year 2006, 2007, 2008 and 2009 there shall be a cancellation ceiling of zero.

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee or customer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 RESTRICTION ON DISCLOSURE AND USE OF DATA

Offerors who include in their proposal data that they do not want disclosed to the public or used by the District Government except for use in the procurement process shall:

1.5.1 Mark the title page with the following legend:

"This proposal includes data that shall not be disclosed outside the District Government and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.

1.5.2 If however, a contract is awarded to this Offeror as a result of or in connection with the submission of this data, the District Government shall have the right to duplicate, use, or disclose the

data to the extent consistent with the District's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this data if it is obtained from another source. The data subject to this restriction are contained in sheets (insert numbers or other identification of sheets)."

I.5.3 Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal."

I.6 RIGHTS IN DATA

I.6.1 "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data including case records and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

I.6.2 The term "Technical Data", as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

I.6.3 The term "Computer Software", as used herein means computer programs and computer databases. "Computer Programs", as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

- I.6.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.6.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.6.6** The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.6.6.1** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
 - I.6.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
 - I.6.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and
 - I.6.6.4** Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

I.6.7 The restricted rights set forth in section I.6.6 are of no effect unless

(i) the data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____

With _____ (Contractor's Name) and

(ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

I.6.8 In addition to the rights granted in Section I.6.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.6.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

I.6.9 Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use Section I.6 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

I.6.10 For all computer software furnished to the District with the rights specified in Section I.6.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.6.5. For all computer software furnished to the District with the restricted rights specified in Section I.6.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by the court if competent

jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

I.6.11 The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.6.12 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

I.6.13 Paragraphs I.6.6, I.6.7, I.6.8, I.6.11 and I.6.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

I.7 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District Contractor or by any District employee.

I.8 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District shall have the right to review and approve prior to its execution to the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.9 CONTINUITY OF SERVICES

I.9.1 The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

I.9.1.1 Furnish phase-out, phase-in (transition) training; and

I.9.1.2 It is the Contractor's responsibility to effect an orderly and efficient transition to a successor.

I.9.2 Upon contract termination or expiration, the Contractor shall provide for continuity of operations of the DCP as detailed in this section.

The Contractor shall maintain the level of effectiveness required by the performance standards until turnover is deemed complete by the Contracting Officer's Technical Representative.

I.9.3 The Contractor agrees that all claims files and related data are at all times the confidential property of the District government, and that such files and data shall be transferred to the District or a new service provider without charge, except reasonable transportation costs, upon contract termination or expiration.

I.9.4 Upon contract termination or expiration, the Contractor shall cooperate with the District and any new service provider in transferring all claims files data, reports and any other information via electronic transfer and corresponding paper file transfer.

I.10 INSURANCE

The Contractor shall obtain the minimum insurance coverage set forth below prior to award of the contract and within ten (10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract period.

I.10.1 Bodily Injury: The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least \$500,000 per occurrence.

I.10.2 Property Damage: The Contractor shall carry property damage insurance of at least \$20,000 per occurrence.

I.10.3 Workers' Compensation: The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.

I.10.4 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000).

I.10.5 Automobile Liability: The contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

I.10.6 All insurance provided by the Contractor as required by this section, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the District's Contracting Officer within fourteen (14) days of contract award. The policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration.

I.11 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85, dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Attachment J.4. An award cannot be made to any Offeror who has not satisfied the equal employment requirements as set forth by the Office of Local Business Development.

I.12 PRE-AWARD APPROVAL

In accordance with the District of Columbia Financial Responsibility and Management Assistance Act of 1995, D.C. Official Code §2-301.05a, as amended, and D.C. Official Code §1-204.51, the Council must approve any multiyear contract or contract in excess of one million dollars before the District may award the contract.

I.13 MULTIYEAR CONTRACT TERMS

This is a multi-year (three-years) contract for services for which some of the funds would otherwise be available for obligation only within the fiscal year for which appropriated. If these funds are not made available for the continuation of the contract into a subsequent fiscal year, the contract shall be canceled or terminated.

SECTION J

LIST OF ATTACHMENTS

- J.1** Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated April 2003
- J.2** LSDBE Certification Package
- J.3** Wage Determination No. 94-2103 (Revision No. 32, dated May 27, 2004)
- J.4** E.E.O. Information and Mayor Orders 85-85
- J.5** Tax Certification Affidavit
- J.6** First Source Employment Agreement
- J.7** Cost/Price Data Package, as Applicable
- J.8** Past Performance Evaluation Form
- J.9** List of Agencies and number of employees
- J.10** Contractor Performance Evaluation Report
- J.11** District-wide Customer Service Voice Mail Standard
- J.12** Application of Incentives or Disincentives

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 TAX CERTIFICATION

Each Offeror must submit with its offer, a sworn Tax Certification Affidavit incorporated herein as Attachment J 5.

K.2 AUTHORIZED NEGOTIATORS

The Offeror represents that the following persons are authorized to negotiate on its behalf with the District in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

K.3 TYPE OF BUSINESS ORGANIZATION

K.3.1 The Offeror, by checking the applicable box, represents that

(a) It operates as:

_____ a corporation incorporated under the laws of the State of

_____ an individual,

_____ a partnership

_____ a nonprofit organization, or

_____ a joint venture; or

(b) If the Offeror is a foreign entity, it operates as:

_____ an individual

_____ a joint venture, or

_____ a corporation registered for business in

(Country)

K.4 EMPLOYMENT AGREEMENT

For all offers over \$100,000, except for those in which the Offeror is located outside the Washington Metropolitan Area and will perform no work in the Washington Metropolitan Area, the following certification is required (see Clause 28 of the Standard Contract Provisions). The Offeror recognizes that one of the primary goals of the District government is the creation of job opportunities for bona fide District residents. Accordingly, the Offeror agrees to pursue the District's following goals for utilization of bona fide residents of the District of Columbia with respect to this contract and in compliance with Mayor's Order 83-265: (1) at least 51% of all jobs created as a result of this contract are to be performed by employees who are residents of the District of Columbia and (2) at least 51% of apprentices and trainees shall be residents of the District of Columbia registered in programs approved by the D.C. Apprenticeship Council. The Offeror also agrees to notify all prospective subcontractors, prior to execution of any contractual agreements, that the subcontractors are expected to implement Mayor's Order 83-265 in their own employment practices. The Offeror understands and will comply with the requirements of The Volunteer Apprenticeship Act of 1978, D.C. Code Official sec. 32-1401 et seq., and the First Source Employment Agreement Act of 1984, D.C. Official Code sec. 2-219.01 et seq.

The Offeror certifies that it intends to enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services (DOES). Under this First Source Employment Agreement, the Offeror will use DOES as the first source for recruitment and referral of any new employees. The Offeror shall negotiate the First Source Employment Agreement directly with DOES. Nothing in this certification or the First Source Employment Agreement shall be construed as requiring the Offeror to hire or train persons it does not consider qualified based on standards the Offeror applies to all job applicants.

Name _____ Title_____

Signature _____ Date_____

K.5 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS

Mayor's Order 85-85, "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to

complete the certification may result in rejection of the Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Offeror_____Date_____

Name_____Title_____

Signature_____

Offeror ____has ____has not participated in a previous contract or subcontract subject to the Mayor's Order 85-85. Offeror____has ____has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subofferors. (The above representations need not be submitted in connection with contracts or subcontracts, which are exempt from the Mayor's Order.)

K.6 WALSH-HEALEY ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

- (a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.
- (b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). (41 U.S.C. 40) Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (29 U.S.C. 214).

K.7 BUY AMERICAN CERTIFICATION

The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in Clause 29 of the Standard Contract Provisions, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

_____	EXCLUDED END PRODUCTS
_____	COUNTRY OF ORIGIN

K.8 OFFICERS NOT TO BENEFIT CERTIFICATION

Each Offeror shall check one of the following:

_____ No person listed in Clause 17 of the Standard Contract Provisions will benefit from this contract.

_____ The following person(s) listed in Clause 17 may benefit from this contract. For each person listed, attach the affidavit required by Clause 17 of the Standard Contract Provisions.

K.9 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) Each signature of the Offeror is considered to be a certification by the signatory in accordance with D.C. Official Code 2-303.16 that:

1) The prices in this Contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:

- (i) those prices,
- (ii) the intention to submit a Contract, or
- (iii) the methods or factors used to calculate the prices in the Contract;

2) The prices in this Contract have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before Contract opening unless otherwise required by law; and

- 3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a Contract for the purpose of restricting competition.
- (b) Each signature on the offer is considered to be a certification by the signatory that the signatory;
- 1) Is the person in the Offeror's organization responsible for determining the prices being offered in this Contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - 2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Offeror's organization);

- (ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(I) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
 - (iii) As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a) (1) through (a) (3) above.
- (b) If the Offeror deletes or modifies subparagraph (a) (2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District

The District intends to award, but is not obligated to award, a single contract resulting from this solicitation, to the responsible offeror whose offer conforming to the solicitation, will be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.2 Initial Offers

The District may award contracts on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the offeror's best terms from a standpoint of cost or price, technical and other factors.

L.1.3 Acceptance or Rejection

The District reserves the right to accept/reject any/all offers resulting from this solicitation. The Contracting Officer may reject all proposals, or waive any minor informality or irregularity in proposals received whenever it is determined that such action is in the best interest of the District.

L.1.4 Information Systems (IS)

If necessary, after competitive range determination of Off-Site proposals, the Contracting Officer will schedule a test demonstration of the potential Contractors' IS linking capabilities with those of DCORM's RMIS.

L.2 PROPOSAL FORMAT, ORGANIZATION AND CONTENT

Offerors shall submit one original and seven (7) copies of its written On-Site proposal and one original and seven (7) copies of its written Off-Site proposal. **Offeror submittals that do not include an On-Site and an Off-Site proposal will be rejected.** Proposals shall be typewritten in 12-point font size on 8.5" by 11" bond paper with one-inch margins. Telephonic, telegraphic and electronic proposals will not be accepted. Each proposal shall be submitted in a sealed envelope conspicuously marked: **"(On-Site or Off-Site) Proposal in Response to Solicitation No. DCAE-2004-R-0014 Disability Compensation Program"**.

Written proposals shall be submitted in two parts, titled “**Technical Proposal**” and “**Price Proposal**”. Cost and Price information shall not be included in the Technical Proposal.

Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, **EVALUATION FACTORS FOR AWARD**. The offeror shall respond to each factor in a way that will allow the District to evaluate the offeror’s response. The offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program services and service delivery. The information requested below for the technical proposal shall facilitate evaluation and best value source selection for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise representation of the offeror’s ability to meet the requirements in the Statement of Work.

Proposals shall include a table of contents with a detailed listing of information presented in the Contractor’s proposal and each page shall be numbered.

L.3 TECHNICAL PROPOSAL

The offeror shall identify this portion of the proposal as “On-Site Technical Proposal” for offeror’s on-site proposal and “Off-Site Technical Proposal” for offeror’s off-site proposal. This section shall contain an introduction outlining the offeror’s overall technical approach to fulfill the requirements of the contract. This statement should refer to the work to be performed as set forth in Section C, Statement of Work, and describe how the work will be accomplished in sufficient detail to permit the District to evaluate it in accordance with Section M, Evaluation Factors.

L.3.1 Section 1 – Technical Approach: Offeror shall submit a detailed approach and technical plan that will detail its understanding of the requirements specified in Section C and its approach to successfully provide services to satisfy the District’s requirements. The offeror must provide a project management plan detailing its organizational structure and a sample of a successfully implemented quality control plan.

L.3.2 Section 2 – Technical Expertise: Offeror shall detail its experience in the management and operation of a large-scale claims administration program comparable to that required in the RFP. Offeror must provide appropriate documentation of staff credentials and include evidence of staff orientation and training. Offeror shall also provide resumes for the key personnel listed in Sections H.1.2 and L.19.1.

L.3.3 Section 3 – Past Performance: Offeror shall submit three (3) relevant references from current or prior customers. References from other jurisdictions are preferable. Provide name, address, email, fax and

telephone number of the references. Describe the services that are or have been provided, the period of time that services have been provided to the customer and the dollar amount.

L.3.5 Section 4 – Attachments: The offeror shall complete and provide in this section, the following documents and pertinent information:

- A. Solicitation, Offer and Award form;
- B. Attachments referenced in Sections K, H and M of this solicitation;
- C. Representations and certifications and other statements of the offeror in Section K shall be completed and signed; and
- D. Other pertinent information

L.4 PRICE PROPOSAL

L.4.1 The offeror shall identify this portion of the proposal as the “ON-SITE PRICE PROPOSAL” for offeror’s on-site proposal, and “OFF-SITE PRICE PROPOSAL” for offeror’s off-site proposal, and bind it separately from the remainder of the proposal. The price proposal will be evaluated separately from the Technical Proposal. Price data shall not be presented in the technical portion of the proposal.

L.4.2 The offeror shall submit the price information in the manner and format stated in Section B, Description of Services or Supplies and Prices, and shall conform to the requirements of that Section. Offerors shall submit pricing for all Contract Line Item Numbers (CLINs). Proposals that fail to provide pricing for each CLIN may be considered unacceptable.

L.4.3 Offerors shall provide cost/price data in accordance with Attachment J.7.

L.5 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.5.1 Proposal Submission Time

Proposals must be submitted no later than 2:00 p.m. local time on Thursday, September 30, 2004. Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

- a) The proposal or modification was sent by registered or certified mail no later than the fifth (5th) calendar day before the date specified for receipt of offers;
- b) The proposal or modification was sent by mail and it is determined by the Contracting Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the District after receipt;
or
- c) The proposal is the only proposal received.

L.5.2 Withdrawal or Modification of Proposals

An offeror may modify or withdraw its proposal upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of proposals, but not later than the closing date for receipt of proposals.

L.5.3 Postmarks

The only acceptable evidence to establish the date of a late proposal, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the proposal, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the proposal shall be considered late unless the offeror can furnish evidence from the postal authorities of timely mailing.

L.5.4 Late Submissions

A late proposal, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.5.5 Late Modifications

A late modification of a successful proposal, which makes its terms more favorable to the District, shall be considered at any time it is received and may be accepted.

L.5.6 Late Proposals

A late proposal, late modification or late withdrawal of an offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

L.6 HAND DELIVERY OR MAILING OF PROPOSALS

DELIVER OR MAIL TO:

Attention: Lindel Reid, Contract Specialist
Office of Contracting and Procurement
Bid Room
441 4th Street, NW
Suite 703 South
Washington, D. C. 20001

L.7 EXPLANATION TO PROSPECTIVE OFFERORS

If a prospective Offeror has any questions relative to this solicitation, the prospective Offeror shall submit the question in writing to the Contact Person, identified on page one. The prospective offeror shall submit questions no later than ten (10) calendar days prior to the closing date and time indicated for this solicitation. The District will furnish responses promptly to all prospective offerors. An amendment to the solicitation will be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding.

L.8 FAILURE TO SUBMIT OFFERS

Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Contracting Officer, Office of Contracting and Procurement, Professional Services and Public Safety CBG No. 6, 441 4th Street N.W., Suite 700 South, Washington, D.C. 20001, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Contracting Officer of the reason for not submitting a proposal in response to this solicitation. If a recipient does not submit an offer and does not notify the Contracting Officer that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.9 PROTESTS AT THE CONTRACT APPEALS BOARD

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation that are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed with the Board prior to bid opening or the

time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting Officer for the solicitation.

L.10 SIGNING OF OFFERS

The Contractor shall sign the offer and print or type its name on the **Solicitation, Offer and Award** form of this solicitation. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

L.11 UNNECESSARILY ELABORATE PROPOSALS

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are **not** desired and may be construed as an indication of the Offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

L.12 RETENTION OF PROPOSALS

All proposal documents will be the property of the District and retained by the District, and therefore will not be returned to the Offerors.

L.13 PROPOSAL COSTS

The District is not liable for any costs incurred by the offerors in submitting proposals in response to this solicitation.

L.14 ACKNOWLEDGMENT OF AMENDMENTS

The offeror shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A of the solicitation; or (c) by letter or telegram including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of offers. Offerors' failure to acknowledge an amendment may result in rejection of the offer.

L.15 ACCEPTANCE PERIOD

The offeror agrees that if its offer is accepted within 90 days from the date specified in the solicitation for the submission of proposals or if its last best and final offer is accepted within 90 days from the date specified for submission thereof, to furnish services at the price stated in the proposal, at the designated place within the time specified in the period of performance of the contract.

L.16 BEST AND FINAL OFFERS

If, subsequent to receiving original proposals, negotiations are conducted, all offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers will be subject to Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of best and final offers, no discussions will be reopened unless the Contracting Officer determines that it is clearly in the Government's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Contractor selection and award based on the best and final offers received. If discussions are reopened, the Contracting Officer shall issue an additional request for best and final offers to all Offerors still within the competitive range.

L.17 LEGAL STATUS OF OFFEROR

Each proposal must provide the following information:

- L.17.1** Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Offeror;
- L.17.2** District of Columbia license, registration or certification, if required by law to obtain such license, registration or certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and
- L.17.3** If the offeror is a partnership or joint venture, names of general partners or joint ventures, and copies of any joint venture or teaming agreements.
- L.17.4** The District reserves the right to request additional information regarding the offeror's organizational status.

L.18 STANDARDS OF RESPONSIBILITY

The prospective Contractor must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements, therefore, the prospective Contractor must submit the documentation listed below, within five (5) days of the request by the District.

- L.18.1** Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.
- L.18.2** Furnish evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- L.18.3** Furnish evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.18.4** Furnish evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.18.5** Furnish evidence of a satisfactory performance record, record of integrity and business ethics.
- L.18.6** Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.18.7** If the prospective Contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or no responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective Contractor to be non-responsible.

L.19 KEY PERSONNEL

- L.19.1** The District considers the following positions to be key personnel for this contract: Contract Manager, Claims Supervisor, Claims Manager, Senior Claims Adjusters and Nurse Case Managers.
- L.19.2** The offeror shall set forth in its proposal, the names and reporting relationships of the key personnel the offeror will use to perform the work under the proposed contract. Their resumes shall be included. The hours that each will devote to the contract shall be provided in total and broken down by task.

L.20 PRE-PROPOSAL CONFERENCE

L.20.1 A pre-proposal conference will be held at 11:00 a.m. on Monday, September 13, 2004 at One Judiciary Square, 441 4th Street, N.W., Suite 700 South, Washington D.C. 20001. Prospective offerors will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from offerors on the SOLICITATION document as well as to clarify the contents of the SOLICITATION. Attending offerors must complete the Pre-Proposal Conference Attendance Roster at the conference so that offeror attendance can be properly recorded.

L.20.2 Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the Department's final position. All oral questions must be submitted in writing following the close of the pre-proposal conference but no later than five working days after the pre-proposal conference in order to generate an official answer. Official answers will be provided in writing to all prospective offerors who are listed on the official bidder's list as having received a copy of the solicitation. Answers will be posted on the OCP website at www.ocp.dc.gov.

SECTION M

EVALUATION FACTORS FOR AWARD

M.1 EVALUATION FOR AWARD

M.1.1 The contract will be awarded to the responsible offeror whose offer is most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria. The District reserves the right to award to other than the technically, lowest evaluated price offeror if that offeror is judged to have a moderate, high or not applicable performance risk rating.

M.1.2 Upon receipt of proposals, an evaluation team composed of representatives of the DCORM and such other persons as the Contracting Officer may designate will evaluate the proposals. Every member will evaluate on-site proposals, and if necessary off-site proposals, based on the evaluation criteria and assign a numerical rating. The Contracting Officer shall make a substantive independent evaluation of the proposals and shall review the ratings assigned by the evaluation team. The Contracting Officer shall make a selection decision based on the Contracting Officer's independent judgment of the relative merits of the competing proposals.

M.1.3 Since the District's preference in the awarding of a contract under this solicitation will be to award a contract to the offeror who will perform services on-site, (On-Site services do not include C.5.9 through C.5.13), the District will first evaluate the ON-SITE proposals.

M.1.3.1 As a preliminary step to full evaluation of ON-SITE proposals, the District will make the following determinations regarding each of the ON-SITE proposals:

1. Whether the proposal contains an offer to provide ON-SITE services as required under this solicitation;
2. Whether the proposal demonstrates that the offeror is capable of performing services ON-SITE, considering the proposed space requirements, equipment requirements, number and type of proposed personnel, and on-site organizational structure; and
3. Whether the proposal contains a reasonable price for ON-SITE work as compared to the District's estimate.

- M.1.3.2** If the District determines that there is at least one (1) ON-SITE proposal that meets all of the above criteria (1 through 3), then the District will proceed to evaluate fully all ON-SITE proposals in accordance with the Evaluation factors set forth in Section M. In the event that the District determines that no proposal meets all of the above criteria (1 through 3), then the District will proceed to evaluate OFF-SITE proposals in accordance with the Evaluation factors set forth in Section M.

M.2 TECHNICAL RATING

The Technical Rating Scale is as follows:

<u>Numeric Rating</u>	<u>Adjective</u>	<u>Description</u>
0	Unacceptable	Fails to meet minimum requirements, e.g., no demonstrated capacity, major deficiencies which are not correctable; offeror did not address the factor.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

For example, if a subfactor has a point evaluation of 0 to 6 points, and (using the Technical Rating Scale) the District evaluates as "good" the part of the proposal applicable to the subfactor, the score for the subfactor is 4.8 (4/5 of 6). The subfactor scores will be added together to determine the score for the factor level.

M.3 EVALUATION CRITERIA VALUES

The technical evaluation criteria are outlined below in descending order of importance. Selection of an offeror for contract award will be based on an evaluation of proposals against the following factors:

M.3.1 ON-SITE TECHNICAL CRITERIA (70 POINTS)

M.3.1.1 Technical Approach (Total Points Possible: 40 points)

- M.3.1.1.1** The offeror has a complete understanding of and the ability to meet DCORM's on-site requirements and objectives, as demonstrated by the offeror's management approach, including its project management plan,

organizational structure and quality control mechanisms as demonstrated by its sample quality control plan.

M.3.1.2 Technical Expertise
(Total Points Possible: 20 points)

M.3.1.2.1 The offeror has demonstrated relevant experience in management and operation of large-scale claims administration services for one or more self-insured public entities. Offeror has provided appropriate documentation of staff credentials and has proposed key personnel that possess the necessary qualifications for and experience providing worker's compensation claims services.

M.3.1.3 Past Performance (Total Points Possible: 10 points)

M.3.1.3.1 The offeror has demonstrated its ability to perform the requirements of this RFP by its relevant, successful past performance on similar contracts. Past performance is the assessment of the future performance risk as reflected by actual past and current performance.

M.3.2 ON-SITE PRICE CRITERIA (30 POINTS)

The price evaluation will be objective. The offeror with the lowest on-site price for the base plus option years will receive the maximum points. All other on-site proposals will receive a proportionately lower total score. The following formula will be used to determine each offeror's evaluated on-site price score:

$$\frac{\text{Lowest on-site price proposal}}{\text{Price of proposal being evaluated}} \times 30 = \text{Evaluated price score}$$

M3.3 TOTAL ON-SITE TECHNICAL AND PRICE POINTS 100 POINTS

Possible LSDBE Allowances (Up to 12 Points)	
Local Business Enterprise	4 Points
Disadvantaged Business Enterprise	3 Points
Resident Business Ownership	3 Points
Designated Enterprise Zone Business Enterprise	2 Points
MAXIMUM TOTAL TECHNICAL, LSDBE AND PRICE FACTORS	112 Points

M.3.4 OFF SITE - TECHNICAL CRITERIA (80 POINTS)

M.3.4.1 Technical Approach (Total Points Possible: 40 points)

M.3.4.1.1 The offeror has a complete understanding of and the ability to meet DCORM's requirements and objectives, as demonstrated by the offeror's management approach, including its project management plan, organizational structure and quality control mechanisms as demonstrated by its sample quality control plan.

M.3.4.2 Technical Expertise (Total Points Possible: 20 points)

M.3.4.2.1 The offeror has demonstrated relevant experience in management and operation of large-scale claims administration services for one or more self-insured public entities. Offeror has provided appropriate documentation of staff credentials and has proposed key personnel that possess the necessary qualifications for and experience providing worker's compensation claims services.

M.3.4.3 Past Performance (Total Points Possible: 20 points)

M.3.4.3.1 The offeror has demonstrated its ability to perform the requirements of this RFP by its relevant, successful past performance on similar contracts. Past performance is the assessment of the future performance risk as reflected by actual past and current performance.

M.3.5 OFF SITE - PRICE CRITERIA (20 POINTS)

The price evaluation will be objective. The offeror with the lowest off-site price for the base plus option years will receive the maximum points. All other off-site proposals will receive a proportionately lower total score. The following formula will be used to determine each offeror's evaluated off-site price score:

$$\frac{\text{Lowest off-site price proposal}}{\text{Price of proposal being evaluated}} \times 20 = \text{Evaluated price score}$$

M3.6 TOTAL OFF-SITE TECHNICAL AND PRICE POINTS 100 POINTS

Possible LSDBE Allowances (Up to 12 Points)	
Local Business Enterprise	4 Points
Disadvantaged Business Enterprise	3 Points
Resident Business Ownership	3 Points
Designated Enterprise Zone Business Enterprise	2 Points
MAXIMUM TOTAL TECHNICAL, LSDBE AND PRICE FACTORS	112 Points

M.4 LOCAL, SMALL OR DISADVANTAGED BUSINESS ENTERPRISES (LSDBE) CLAUSES

A. CLAUSES APPLICABLE TO ALL OPEN MARKET SOLICITATIONS

1. Preference for Local Businesses, Disadvantage Businesses, Resident Business Ownerships or Businesses Operating in an Enterprise Zone

a. General Preferences

Under the provisions of D.C. Law 13-169, "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000" (the Act), the District shall apply preferences in evaluating bids or proposals from businesses that are local, disadvantaged, resident business ownership or located in an enterprise zone of the District of Columbia.

For evaluation purposes, the allowable preferences under the Act for this procurement are as follows:

- 1) Four percent reduction in the bid price or the addition of four points on a 100-point scale for a local business enterprise (LBE) certified by the Local Business Opportunity Commission (LBOC);
- 2) Three percent reduction in the bid price or the addition of three points on a 100-point scale for a disadvantaged business enterprise (DBE) certified by the LBOC;
- 3) Three percent reduction in the bid price or the addition of three points on a 100-point scale for a resident business ownership (RBO), as defined in Section 2(a)(8A) of the Act, and certified by the LBOC; and
- 4) Two percent reduction in the bid price or the addition of two points on a 100-point scale for a business located in an enterprise zone, as defined in Section 2(5) of D.C. Law 12-268 and in 27 DCMR 899, 39 DCR 9087-9088 (December 4, 1992).

Any prime contractor that is a LBE certified by the LBOC will receive a four percent (4%) reduction in the bid price for a bid submitted by the LBE in response to an Invitation for Bids (IFB) or the addition of four points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to a Request for Proposals (RFP).

Any prime contractor that is a DBE certified by the LBOC will receive a three percent (3%) reduction in the bid price for a bid submitted by the DBE in response to an IFB or the addition of three points on a 100-point

scale added to the overall score for proposals submitted by the DBE in response to a RFP.

Any prime contractor that is a RBO certified by the LBOC will receive a three percent (3%) reduction in the bid price for a bid submitted by the RBO in response to an IFB or the addition of three points on a 100-point scale added to the overall score for proposals submitted by the RBO in response to a RFP.

Any prime contractor that is a business enterprise located in an enterprise zone will receive a two percent (2%) reduction in the bid price for a bid submitted by such business enterprise in response to an IFB or the addition of two points on a 100-point scale added to the overall score for proposals submitted by such business in response to a RFP.

b. Preferences for Subcontracting in Open Market Solicitations with No LBE, DBE, RBO Subcontracting Set-Aside

The preferences for subcontracting in open market solicitations where there is no LBE, DBE or RBO subcontracting set-aside are as follows:

1) If the prime contractor is not a certified LBE, certified DBE, certified RBO or a business located in an enterprise zone, the District will award the above-stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the prime contractor for subcontracting with a certified LBE, DBE, RBO or business located in an enterprise zone.

2) If the prime contractor is a joint venture that is not a certified LBE, certified DBE or certified RBO joint venture, or if the prime contractor is joint venture that includes a business in an enterprise zone but such business located in an enterprise zone does not own and control at least 51% of the joint venture, the District will award the above-stated preferences by reducing the bid price or by increasing the points proportionally in the proposal based on the total dollar value of the bid or proposal that is designated by the prime contractor for a certified LBE, DBE , RBO or business located in an enterprise zone, for participation in the joint venture.

For Example:

If a non-certified prime contractor subcontracts with a certified local business enterprise for a percentage of the work to be performed on an RFP, the calculation of the percentage points to be added during evaluation would be according to the following formula:

Amount of Subcontract

$$\frac{\text{Amount of Contract}}{\text{Evaluation of LSDBE Subcontracting}} \times 4^* = \text{Points Awarded During}$$

*Note: Equivalent of four (4) points on a 100-point scale

The maximum total preference under the Act for this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to a RFP. Any prime contractor receiving the full bid price reduction or point addition to its overall score for a particular preference will not receive any additional bid price reduction or points for further participation on a subcontracting level for that particular preference.

However, the prime contractor will receive a further proportional bid price reduction or point addition on a different preference for participation on a subcontracting level for that different preference. For example, if a LBE prime contractor receives the four percent bid price reduction or the equivalent of four points on a 100-point scale, the LBE prime contractor does not receive a further price reduction or additional points if such contractor proposes subcontracting with an LBE. However, if this same LBE prime contractor proposes subcontracting with a DBE, the LBE prime contractor receives a further proportional bid price reduction or point addition for the DBE participation on the subcontracting level.

2. **Preferences for Certified Joint Ventures Including Local or Disadvantaged Businesses or Resident Business Ownerships**

When an LBOC-certified joint venture includes a local business enterprise (LBE), disadvantaged business enterprise (DBE) or a resident business ownership (RBO), and the LBE, DBE or RBO owns and controls at least fifty-one (51%) of the venture, the joint venture will receive the preferences as if it were a certified LBE, DBE or RBO.

3. **Preferences for Joint Ventures Including Businesses Located in an Enterprise Zone**

When a joint venture includes a business located in an enterprise zone, and such business located in an enterprise zone owns and controls at least fifty-one percent (51%) of the venture, the joint venture will receive the preference as if it were a business located in an enterprise zone.

4. **Vendor Submission for Preferences**

Any vendor seeking to receive preferences on this solicitation must submit at the time of, and as part of its bid or proposal the following documentation, as applicable to the preference being sought:

- a. Evidence of the vendor's, subcontractor's, or joint venture partner's certification or self-certification as a LBE, DBE or RBO, to include either:
 - 1) A copy of all relevant letters of certification from the Local Business Opportunity Commission (LBOC); or
 - 2) A copy of any sworn notarized Self-Certification Forms prescribed by the LBOC, along with an acknowledgement letter issued by the Director of the LBOC. Businesses with principal offices located outside of the District of Columbia must first be certified as LBEs before qualifying for self-certification.
- b. Evidence that the vendor or any subcontractor is located in an enterprise zone.

In order for a bidder or offeror to receive allowable preferences under this solicitation, the bidder or offeror must include the relevant information as described in subparagraphs (a) and (b) of this clause, as part of its bid or proposal.

Attachment J.2 contains the Self-Certification Package.

In order to receive any preferences under this solicitation, any vendor seeking self-certification must complete and submit the forms to:

Office of Local Business Development
ATTN: LSDBE Certification Program
441 Fourth Street, N.W., Suite 970N
Washington, DC 20001

All vendors are encouraged to contact the Local, Small and Disadvantaged Business Enterprises Certification Program at (202) 727-3900 if additional information is required on certification procedures and requirements.

5. Penalties for Misrepresentation

Any material misrepresentation on the sworn notarized self-certification form could result in termination of the contract, the contractor's liability for civil and criminal action in accordance with the Act, D.C. Law 12-268, and other District laws, including debarment.

6. Local, Small, and Disadvantaged Business Enterprise Subcontracting

- a. When a prime contractor is certified by the Office of Local Business Development as a local, small or disadvantaged business or a resident business ownership, the prime contractor shall perform at least fifty percent (50%) of the contracting effort, excluding the cost of materials, goods, and supplies with its own organization and resources, and if it subcontracts, fifty percent (50%) of the subcontracting effort, excluding the cost of materials, goods, and supplies shall be with certified local,

small, and disadvantaged business enterprises and resident business ownerships, unless a waiver is granted by the contracting officer, with the prior approval and consent of the Director of the LBOC under the provisions of 27 DCMR 805, 39 DCR 5578-5580 (July 24, 1992).

- b. By submitting a signed bid or proposal, the prime contractor certifies that it will comply with the requirements of paragraph (a) of this clause.

B. CLAUSES APPLICABLE TO OPEN MARKET SOLICITATIONS IN WHICH THERE WILL BE LBE, DBE, OR RBO SUBCONTRACTING OR SUBCONTRACTING WITH A BUSINESS LOCATED IN AN ENTERPRISE ZONE

1. Subcontracting Plan

A notarized statement detailing a subcontracting plan shall be submitted, as part of the bid or proposal, by any prime Contractor seeking a preference on the basis of proposed subcontracting with a local business enterprise (LBE), disadvantaged business enterprise (DBE), resident business ownership (RBO) or business located in an enterprise zone; and by any prime contractor responding to a solicitation in which there is a LBE, DBE, or RBO subcontracting set-aside. Each subcontracting plan shall include the following:

- (a) A description of the goods and services to be provided by the LBE, DBE, or RBO or business located in an enterprise zone;
- (b) If the prime contractor is seeking a preference on the basis of proposed subcontracting with a LBE, DBE, RBO, or a business located in an enterprise zone, a statement of the dollar amount, by type of business enterprise, of the bid or proposal that is designated by the prime contractor for a LBE, DBE, RBO, or business located in an enterprise zone;
- (c) If the solicitation contains a LBE, DBE, or RBO subcontracting set-aside, a statement of the dollar value, by type of business enterprise, of the bid or proposal that pertains to the subcontracts to be performed by the LBEs, DBEs, or RBOs;
- (d) The names and addresses of all proposed subcontractors who are LBEs, DBEs, RBOs or businesses located in an enterprise zone;
- (e) The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;

- (f) A description of the efforts the prime contractor will make to ensure that LBEs, DBEs, RBOs, or businesses located in an enterprise zone will have an equitable opportunity to compete for subcontracts;
- (g) In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- (h) Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- (i) List the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime contractor will make such records available for review upon the District's request; and
- (j) A description of the prime Contractor's recent effort to locate LBEs, DBEs, RBOs, and businesses located in an enterprise zone and to award subcontracts to them.

2. **Liquidated Damages**

- a. If during the performance of this contract, the contractor fails to comply with the subcontracting plan submitted in accordance with the requirements of this contract and 27 DCMR 804.9, 39 DCR 5578 (July 24, 1992), and as approved by the contracting officer, the contractor shall pay to the District liquidated damages in the sum of \$25.00, for each calendar day the contractor fails to comply with the subcontracting plan, unless the Contracting Officer determines that the contractor made good faith efforts to comply with the subcontracting plan in accordance with subparagraph b below.
- b. Prior to assessing any liquidated damages under this provision, the contracting officer shall issue a written notice informing the contractor that it is not in compliance with the subcontracting plan and set forth the areas of non-compliance. The written notice from the contracting officer shall provide the contractor with ten (10) days from the date of receipt of the written notice to correct any areas of non-compliance or to demonstrate that the contractor has used good faith efforts to comply with the subcontracting plan. If

the contractor fails to correct any areas of non-compliance or demonstrate good faith efforts within the ten-day period, the contracting officer shall assess liquidated damages beginning on the first day after the end of the ten-day period.

- c. If failure to comply with the subcontracting plan is such that the contracting officer determines it to be a material breach of the contract and terminates the contract under the Default Clause of the Standard Contract Provisions, the contractor shall be liable for aforementioned liquidated damages accruing until the time the District may reasonably obtain similar goods or services.